# IN THE SUPREME COURT OF THE STATE OF NEVADA

ZURICH AMERICAN INS. CO., et al.

Plaintiffs - Appellants

v.

IRONSHORE SPECIALTY INS. CO.

Defendant - Respondent

Case No.: 81428

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# APPELLANTS' APPENDIX Volume XVII

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# Assurance Co. of America v. Ironshore Spec. Ins. Co. Case No. 81428

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| 11 | Letter from Midlands to Ironshore dated December 13, 2011, Exhibit 32 in Support of Ironshore's Motion for Summary Judgment   | 2626-2629 |
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| 10 | Letter from Midlands to Ironshore dated December 21,<br>2011, Exhibit 19 in Support of Ironshore's Motion for<br>Summary Judgment   | 2468-2471 |
| 11 | Letter from Midlands to Ironshore dated January 25, 2011, Exhibit 35 in Support of Ironshore's Motion for Summary Judgment  | 2661-2664 |
| 15 | Letter from Midlands to Ironshore dated June 20, 2012,<br>for policy effective February 18, 2010-2011, Exhibit 84<br>in Support of Ironshore's Motion for Summary<br>Judgment | 3652-3655 |
| 15 | Letter from Midlands to Ironshore dated June 21, 2012,<br>for policy effective February 18, 2008-2009, Exhibit 82<br>in Support of Ironshore's Motion for Summary<br>Judgment | 3644-3647 |
| 15 | Letter from Midlands to Ironshore dated June 21, 2012,<br>for policy effective February 18, 2009-2010, Exhibit 83<br>in Support of Ironshore's Motion for Summary<br>Judgment | 3648-3651 |
| 9  | Letter from Midlands to Ironshore dated March 11, 2013, Exhibit 10 in Support of Ironshore's Motion for Summary Judgment  | 2236-2239 |
| 12 | Letter from Midlands to Ironshore dated May 27, 2011<br>for policy effective April 15, 2009- 2010, Exhibit 43 in<br>Support of Ironshore's Motion for Summary Judgment        | 2925-2928 |
| 12 | Letter from Midlands to Ironshore dated May 27, 2011<br>for policy effective April 15, 2010-2011, Exhibit 44 in<br>Support of Ironshore's Motion for Summary Judgment         | 2929-2932 |
| 18 | Letter from Midlands to Ironshore dated November 14, 2012, Exhibit 119 in Support of Ironshore's Motion for Summary Judgment  | 4310-4313 |
| 13 | Letter from Midlands to Ironshore dated November 17, 2009, Exhibit 50 in Support of Ironshore's Motion for Summary Judgment   | 3080-3084 |
| 11 | Letter from Midlands to Ironshore dated November 5, 2012, Exhibit 25 in Support of Ironshore's Motion for Summary Judgment  | 2571-2574 |

| 17 | Letter from Midlands to Ironshore dated September 15, 2010, Exhibit 102 in Support of Ironshore's Motion for Summary Judgment   | 4056-4059 |
|----|---|-----------|
| 18 | Letter from Midlands to R.A.M.M. Corporation dated<br>November 14, 2012, Exhibit 120 in Support of<br>Ironshore's Motion for Summary Judgment   | 4314-4326 |
| 13 | Letter from Stallion Mountain Homeowners'<br>Association's counsel to William Lyon Homes, Inc.<br>dated August 4, 2004, Exhibit 59 in Support of<br>Ironshore's Motion for Summary Judgment | 3209-3237 |
| 11 | Letter from Zurich to Ironshore and others dated<br>October 17, 2012, Exhibit 24 in Support of Ironshore's<br>Motion for Summary Judgment   | 2568-2570 |
| 14 | Letter from Zurich to Ironshore dated April 27, 2010,<br>Exhibit 68 in Support of Ironshore's Motion for<br>Summary Judgment  | 3330-3333 |
| 12 | Letter from Zurich to Ironshore dated April 29, 2011,<br>Exhibit 42 in Support of Ironshore's Motion for<br>Summary Judgment  | 2922-2924 |
| 18 | Letter from Zurich to Ironshore dated August 1, 2012,<br>Exhibit 126 in Support of Ironshore's Motion for<br>Summary Judgment   | 4491-4493 |
| 9  | Letter from Zurich to Ironshore dated August 18, 2011<br>without attachments (attachments are Exhs. 5, 6 and 8)<br>, Exhibit 7 in Support of Ironshore's Motion for<br>Summary Judgment     | 2148-2150 |
| 14 | Letter from Zurich to Ironshore dated December 13, 2010, Exhibit 63 in Support of Ironshore's Motion for Summary Judgment   | 3265-3268 |
| 10 | Letter from Zurich to Ironshore dated December 2,<br>2011, Exhibit 18 in Support of Ironshore's Motion for<br>Summary Judgment  | 2397-2467 |
| 10 | Letter from Zurich to Ironshore dated December 22, 2009, Exhibit 15 in Support of Ironshore's Motion for Summary Judgment   | 2381-2383 |
| 17 | Letter from Zurich to Ironshore dated June 27, 2013,<br>Exhibit 108 in Support of Ironshore's Motion for<br>Summary Judgment  | 4105-4107 |
| 11 | Letter from Zurich to Ironshore dated March 1, 2012,<br>Exhibit 37 in Support of Ironshore's Motion for<br>Summary Judgment   | 2674-2703 |
|    |   |           |

| 11    | Letter from Zurich to Ironshore dated November 10, 2011, Exhibit 30 in Support of Ironshore's Motion for Summary Judgment      | 2621-2623 |
|-------|--|-----------|
| 16    | Letter from Zurich to Ironshore dated November 17, 2011, Exhibit 96 in Support of Ironshore's Motion for Summary Judgment      | 3955-3956 |
| 18    | Letter from Zurich to Midlands dated December 5,<br>2012, Exhibit 121 in Support of Ironshore's Motion for<br>Summary Judgment | 4327-4331 |
| 13    | Letter from Zurich to Midlands dated January 10, 2012,<br>Exhibit 54 in Support of Ironshore's Motion for<br>Summary Judgment  | 3157-3161 |
| 17    | Litigation Escrow Matrix, Exhibit 112 in Support of Ironshore's Motion for Summary Judgment                                    | 4149-4151 |
| 17    | Midlands claim note dated September 3, 2010, Exhibit<br>101 in Support of Ironshore's Motion for Summary<br>Judgment           | 4054-4055 |
| 13-14 | Midlands claim notes October 27, 2009-July 28, 2010,<br>Exhibit 60 in Support of Ironshore's Motion for<br>Summary Judgment    | 3238-3251 |
| 1     | Motion for Partial Summary Judgment filed by Zurich filed 09/16/16   | 0181-0204 |
| 21    | Motion for Relief From Judgment Filed by Zurich filed 09/20/17   | 5051-5056 |
| 8     | Motion for Summary Judgment Filed by Ironshore filed 09/19/16  | 1860-1889 |
| 8     | Notice of Acceptance of Offer filed in NV1, Exhibit 64 in Support of Zurich's Motion for Summary Judgment                      | 1778-1783 |
| 21    | Notice of Appeal filed 10/08/18  | 5083-5083 |
| 21    | Notice of New Case Authority Filed by Ironshore filed 11/02/16   | 5012-5042 |
| 1     | Notice of Removal filed 03/12/15   | 0001-0045 |
| 20-21 | Opposition of Ironshore To Zurich's Motion for Partial Summary Judgment filed 10/11/16   | 4936-4965 |
| 21    | Opposition of Ironshore to Zurich's Motion for Relief filed 10/04/17   | 5057-5066 |

| 20    | Opposition of Zurich To Ironshore's Motion for<br>Summary Judgment filed 10/11/16   | 4904-4935 |
|-------|---|-----------|
| 21    | Order Accepting Certified Questions filed 09/11/20  | 5103-5104 |
| 21    | Order Certifying Question filed 07/02/20  | 5084-5102 |
| 21    | Order Denying Motion filed 09/18/18   | 5076-5082 |
| 21    | Order on Motions for Summary Judgment filed 08/24/17  | 5043-5049 |
| 10    | Plaintiffs' Complaint filed on April 12, 2011, in Seven<br>Hills action, Exhibit 12 in Support of Ironshore's<br>Motion for Summary Judgment                    | 2253-2269 |
| 8     | Plaintiffs' Supplemental Disclosures, dated October 14, 2015, Exhibit 2 in Support of Ironshore's Motion for Summary Judgment                                   | 1972-1975 |
| 18-19 | Portions of subcontracts stating PR Construction<br>Corporation's scope of work, Exhibit 129 in Support of<br>Ironshore's Motion for Summary Judgment           | 4499-4516 |
| 20    | Preliminary Cost of Repair for Claim Summary Report<br>for Debard Plumbing/ <i>Drost</i> , Exhibit 146 in Support of<br>Ironshore's Motion for Summary Judgment | 4779-4799 |
| 8     | Printout - Nevada Secretary of State website, Exhibit<br>75 in Support of Zurich's Motion for Summary<br>Judgment   | 1857-1859 |
| 8     | Printout - Nevada State Contractors Board website,<br>Exhibit 74 in Support of Zurich's Motion for Summary<br>Judgment  | 1855-1856 |
| 8     | Proof of Service of Subpoena - Centex Homes, Exhibit<br>71 in Support of Zurich's Motion for Summary<br>Judgment  | 1845-1846 |
| 8     | Proof of Service of Subpoena - Champion Masonry,<br>Exhibit 70 in Support of Zurich's Motion for Summary<br>Judgment  | 1843-1844 |
| 20    | Reconstruction Cost Guides and Estimates for Debard<br>Plumbing/Lino June 2013, Exhibit 148 in Support of<br>Ironshore's Motion for Summary Judgment            | 4805-4836 |
| 20-21 | Reply of Ironshore To Zurich's Motion for Summary Judgment filed 10/28/16   | 4992-5011 |

| 21 | Reply of Zurich To Ironshore's Motion for Summary Judgment filed 10/28/16   | 4966-4991 |
|----|---|-----------|
| 21 | Reply of Zurich to Opposition To Motion for Relief filed 10/11/17   | 5067-5075 |
| 6  | Report issued as to Garcia, Exhibit 41 in Support of Zurich's Motion for Summary Judgment   | 1337-1340 |
| 17 | Reserved, Exhibit 104 in Support of Ironshore's Motion for Summary Judgment   | 4069-4069 |
| 17 | Reserved, Exhibit 105 in Support of Ironshore's Motion for Summary Judgment   | 4070-4070 |
| 8  | Response to Subpoena - Centex Homes, Exhibit 73 in<br>Support of Zurich's Motion for Summary Judgment   | 1849-1854 |
| 8  | Response to Subpoena - Champion Masonry, Exhibit<br>72 in Support of Zurich's Motion for Summary<br>Judgment  | 1847-1848 |
| 1  | Second Amended Complaint filed 09/28/15   | 0088-0131 |
| 8  | Second Amended Complaint, filed September 28, 2015. (See Docket No. 25.), Exhibit 1 in Support of Ironshore's Motion for Summary Judgment   | 1971-1971 |
| 16 | Subcontract Agreement (excerpts) between D.W.<br>Arnold, Inc. and Universal Framing, Exhibit 92 in<br>Support of Ironshore's Motion for Summary Judgment                              | 3872-3876 |
| 15 | Subcontract Agreement between Coleman<br>Development and J.P Construction Co., Inc. dated<br>April 7, 2000, Exhibit 78 in Support of Ironshore's<br>Motion for Summary Judgment       | 3583-3599 |
| 15 | Subcontract Agreement between Coleman<br>Development and J.P. Construction Co., Inc. dated<br>September 27, 2000, Exhibit 79 in Support of<br>Ironshore's Motion for Summary Judgment | 3600-3611 |
| 15 | Subcontract Agreement between Coleman<br>Development and J.P. Construction Co., Inc. dated<br>February 12, 2002, Exhibit 80 in Support of Ironshore's<br>Motion for Summary Judgment  | 3612-3620 |
| 17 | Subcontract between The Developers of Nevada, LLC<br>and Champion Masonry dated April 20, 2001, Exhibit<br>109 in Support of Ironshore's Motion for Summary<br>Judgment               | 4108-4120 |

| 20 | Subcontractor Allocation (cost of repair) for Debard<br>Plumbing/Wikey dated December 17, 2012, Exhibit<br>150 in Support of Ironshore's Motion for Summary<br>Judgment                     | 4843-4844 |
|----|---|-----------|
| 8  | Subpoena - Centex Homes, Exhibit 69 in Support of Zurich's Motion for Summary Judgment  | 1840-1842 |
| 8  | Subpoena - Champion Masonry, Exhibit 68 in Support of Zurich's Motion for Summary Judgment  | 1837-1839 |
| 14 | Sun City Anthem – Lot Listing – Duplexes, Exhibit 69<br>in Support of Ironshore's Motion for Summary<br>Judgment  | 3334-3339 |
| 6  | Tender Letter in Garcia, Exhibit 39 in Support of Zurich's Motion for Summary Judgment  | 1328-1331 |
| 6  | Tender Letter in Garcia, Exhibit 40 in Support of Zurich's Motion for Summary Judgment  | 1332-1336 |
| 5  | Tender Letter served in Mohan, Exhibit 34 in Support of Zurich's Motion for Summary Judgment  | 1239-1241 |
| 15 | Third Amended Class Action Construction Defect<br>Complaint filed on August 29, 2011, in the <i>Casallas</i><br>action, Exhibit 75 in Support of Ironshore's Motion for<br>Summary Judgment | 3535-3559 |
| 7  | Third Amended Complaint filed in Boyer, Exhibit 54 in Support of Zurich's Motion for Summary Judgment   | 1557-1579 |
| 18 | Third Amended Complaint filed May 14, 2012, in the <i>Boyer</i> action, Exhibit 124 in Support of Ironshore's Motion for Summary Judgment   | 4450-4473 |
| 18 | Third Party Complaint filed by PN II, Inc., on May 22, 2012, in the <i>Boyer</i> action, Exhibit 125 in Support of Ironshore's Motion for Summary Judgment                                  | 4474-4490 |
| 5  | Third Party Complaint filed in Anthem, Exhibit 32 in<br>Support of Zurich's Motion for Summary Judgment   | 1217-1235 |
| 7  | Third Party Complaint filed in Anthem, Exhibit 57 in Support of Zurich's Motion for Summary Judgment  | 1622-1640 |
| 7  | Third Party Complaint filed in Bennett, Exhibit 53 in Support of Zurich's Motion for Summary Judgment   | 1535-1556 |
| 7  | Third Party Complaint filed in Boyer, Exhibit 55 in Support of Zurich's Motion for Summary Judgment   | 1580-1596 |

| 6  | Third Party Complaint filed in Casallas, Exhibit 51 in Support of Zurich's Motion for Summary Judgment   | 1480-1498 |
|----|--|-----------|
| 8  | Third Party Complaint filed in Clark, Exhibit 63 in Support of Zurich's Motion for Summary Judgment  | 1754-1777 |
| 6  | Third Party Complaint filed in Garcia, Exhibit 38 in Support of Zurich's Motion for Summary Judgment   | 1305-1327 |
| 6  | Third Party Complaint filed in Lino, Exhibit 47 in Support of Zurich's Motion for Summary Judgment   | 1409-1426 |
| 6  | Third Party Complaint filed in Marcel, Exhibit 43 in Support of Zurich's Motion for Summary Judgment   | 1356-1368 |
| 7  | Third Party Complaint filed in Stallion Mountain,<br>Exhibit 59 in Support of Zurich's Motion for Summary<br>Judgment  | 1652-1671 |
| 7  | Third Party Complaint filed in Sun City, Exhibit 61 in Support of Zurich's Motion for Summary Judgment   | 1684-1716 |
| 6  | Third Party Complaint filed in Wikey, Exhibit 49 in Support of Zurich's Motion for Summary Judgment  | 1440-1455 |
| 6  | Third Party Complaint, Exhibit 45 in Support of Zurich's Motion for Summary Judgment   | 1383-1395 |
| 12 | Third-Party Complaint filed by American West Homes,<br>Inc. on November 14, 2008 in the <i>Bennett</i> action,<br>Exhibit 41 in Support of Ironshore's Motion for<br>Summary Judgment  | 2900-2921 |
| 10 | Third-Party Complaint filed by Cedco, Inc. on March 27, 2012, in the <i>Seven Hills</i> action, Exhibit 13 in Support of Ironshore's Motion for Summary Judgment                       | 2270-2284 |
| 14 | Third-Party Complaint filed by Del Webb<br>Communities, Inc., on March 18, 2010, in the <i>Sun City</i><br>action, Exhibit 67 in Support of Ironshore's Motion for<br>Summary Judgment | 3297-3329 |
| 11 | Third-Party Complaint filed by Lakemont Copper<br>Hills, LLC on August 1, 2012 in the Lino action,<br>Exhibit 28 in Support of Ironshore's Motion for<br>Summary Judgment              | 2600-2616 |
| 11 | Third-Party Complaint filed by Silverwing<br>Development on December 21, 2012, in the <i>Drost</i><br>action, Exhibit 23 in Support of Ironshore's Motion for<br>Summary Judgment      | 2555-2567 |

| 9  | Third-Party Complaint filed by Terravita Home<br>Construction Company, Inc. on June 23, 2011, in the<br><i>Anthem</i> action, Exhibit 6 in Support of Ironshore's<br>Motion for Summary Judgment  | 2129-2147 |
|----|---|-----------|
| 13 | Third-Party Complaint filed by Terravita Home<br>Construction Company, Inc. on June 23, 2011, in the<br><i>Anthem</i> action, Exhibit 53 in Support of Ironshore's<br>Motion for Summary Judgment | 3138-3156 |
| 17 | Third-Party Complaint filed by The Developers of<br>Nevada, LLC on May 28, 2013, in the <i>Marcel</i> action,<br>Exhibit 111 in Support of Ironshore's Motion for<br>Summary Judgment             | 4136-4148 |
| 15 | Third-Party Complaint filed on February 9, 2012 by<br>Baker-Coleman Construction, Inc., in the <i>Casallas</i><br>action, Exhibit 76 in Support of Ironshore's Motion for<br>Summary Judgment     | 3560-3578 |
| 14 | United Specialty policy no. IRH00CQE0805001 for<br>policy period of February 18, 2008, to February 18,<br>2009, Exhibit 71 in Support of Ironshore's Motion for<br>Summary Judgment               | 3357-3407 |
| 15 | United Specialty policy no. IRH00T960805001 for<br>policy period of October 13, 2008, to October 13, 2009,<br>Exhibit 88 in Support of Ironshore's Motion for<br>Summary Judgment                 | 3695-3746 |

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 individually, JOHNNIE P. FARR, individually; SHAWN FARVER, individually; EDGAR DEAN
 GIBSON and ANN MARTE CHESON, Individually; INNNIER, L. GUTH; individually;
 BILL HINES, individually; GEORGE and DONNA HOBES, individually; MICHAEL and LORIA. HUMPHREY, individually; SVEN and
 KORIA. HUMPHREY, individually; SVEN and
 LENA HORV, individually; KENNETH P. and MARY BETH KLEIN, individually; CYNTHA
 L. HALL, individually; HARRY HIMMENCIER, individually; BLANCHE KIMMEL, individually;
 GILBERT A. MADDOCK, individually; CYNTHA
 L. HALL, individually; HARRY HIMMENCER, individually; BLANCHE KIMMEL, individually;
 GILBERT M. MADOCK, individually; CARRYD, and MARYMCGHLL, individually; IARRYD, and MARYMCGHLL, individually; IARRYD, and MARYMCGHLL, individually; IARRYD, and NARYMCGHLL, individually; IARRYD, and NARYMCGHLL, individually; IARRYD, and NARYMCGHL, individually; IARRYD, and NARYMCGHL, individually; IARRYD, and NARYMCGHL, individually; IARRYD, and JANET MUNCL, individually; IARRYD, individually; FREDDIE M. PITTMAN, individually; TERDDIE M. PITTMAN, individually; TERDDIE M. PITTMAN, individually; TERDDIE M. PITTMAN, individually; STEVENC, C. and SURA YMNES, individually; MARGARITA RAMOS, individually; MARK RICHTER, individually; PAUL and BARBARA SCHMITT, individually; PAUL and BARBARA SCHMITT, individually; YMNER, individually; STEVENC, and SURA YMNES, individually; STEVENC, and SURA YMNES, individually; STEVENC, and SURA YMNER, individually; STEVENC, and CHARA YADOOW, Individually; DAVID C. WEST, individually; ROBERT P. and PREYAR PADGETT, individually; DANN MARCELLA, individually; ROBERT P. and PREYAR PADGETT, individually; DANN MARCELLA, individually; ROBERT P. and PREYAR PADGETT, individually; DANN MARCELLA, individually; CRIENCER, M. GEORGE, PADGETT, individually; DANN MARCELLA, individually; WONNE BECKETT, individually; SHARON GOODIE, individually; NOEHA BROWN, individually; JALMA V. and C. MARB WALDEZ, 2

**ISIC 1412** 

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ARTEMIO SANABRIA, individually; DIANE M.) COLLINS, individually; STEVE CALIENDO, individually; ANTONIO J. HERRERA, individually; GLORIA DAVIS, individually; THOMAS J. DIEMARCHIS, individually; JAMES R. BICHLER, individually; SHAWN and GINER ARRUIT, individually; TYREE GLASPER, R., individually; GLBERT BELTRAN, individually; HECTOR and AMAE J.S.M. CINTRON, individually; KENNETH C. LAUB, individually; PATRICIA GILDEA, individually; BERNARD J. IWASCZYSZYN, individually; JEFFRBY AMICO, individually; PEDRO GRANDE, individually; JERRY and SHEENA M. WASHINGTON, individually; KEITH A. and MIRTHA C. KAWANA, individually; GRBG DEROSA, individually; SHEENA M. WASHINGTON, individually; KEITH A. and MIRTHA C. KAWANA, individually; GREG DEROSA, individually; BRAD and ALLISON BIRD, individually; JASON L. and ROCIO G. BARREDO-UMLAUF, individually; JEFF BOYLE, individually; BARBARA ULLRICH, individually; MAX WASSERMAN, individually; JAY COHEN, individually; GARRISON BALUSEK, individually; CHERYI. WILLAMSON, individually; CHERYI. WILLAMSON, individually; MATTHEW and MICHELLB SCHUCK, individually; MATTHEW and LORI TOLLESON, individually; RENEE JOHNSON, individually; GLENN MILLER, individually; ANDREA CONNOLLY and MICHAEL VICIOUS, individually; SADIA JONES, individually; CHRISTINE MCCAULEY, individually; JAMES LEO RUGGER and PAMELA J. WINEGART, individually; AUNDRIA PINKNEY, individually; AUNDRIA PINKNEY, individually; MUNIER, individually; PAUL J. and TOK N. GUNNER, individually; JAMES K. HARDBAN, individually; JARROD BRADEMAN, individually; JARROD BRADEMAN, individually; JAROME and PATRICIA GRETKA, individually; KENT A. ANRADE, individually; BYAN and SHERYI ADAMS, individually; JASON DRAGO, individually; and ROES 166-600, inclusive, Plaintiffs, Plaintiffs, v. CENTEX HOMES, a Nevada General Partnership; and DOES I through 500, inclusive, Defendants. 

**ISIC 1413** 

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CENTEX HOMES, a Novada General Partnership; and DOES I through 500, inclusive, Third-Party Plaintiffs, v. v. BFB ENTERPRISES, INC., a Nevada Corporation; CAMPBELL CONCRETE OF NEVADA, INC., a Nevada Corporation; VERMAX, INC. doa CENTURY CAST PRODUCTS, a Utah Corporation; LUKESTAR CORPORATION dba CHAMPION MASONRY, a Nevada Corporation; CLASSIC ELECTRIC, INC., a Nevada Corporation; DESBRT LUMBER, LLC, a Nevada Corporation; DESBRT LUMBER, LLC, a Nevada Corporation; DESBRT LUMBER, LC, a Nevada Corporation; DESBRT LUMBER, LC, a Nevada Corporation; DESBRT LUMBER, LC, a Nevada Corporation; DESBRT LUMBER, Corporation; EXECUTIVE PLASTERING, INC., a Nevada Corporation; BRANDON, LLC dba FIRST PREMIER DRYWALL & PAINT, a Nevada Limited Liability Company; GRANTTE WORLD, LTD., a Nevada Limited Liability Company; KENNINGTON PLASTERING NEVADA, a Nevada Corporation; LARRY METHVIN INSTALLATIONS, INC., a California Corporation; LEGEND WINDOWS aka COYOTE SPRINGS WINDOW & DOOR, LLC, a Nevada Limited Liability Company; MACSNUM, AIR & Nevada Corporation; LACAB, DOOR, LLC, a Nevada Limited Liability Company; MACSNUM, AIR & Nevada Corporation; MACSNUM, AND & NEVADA CORPORATION; BACSNUM, AND & NEVADA CORPORATION; MACSNUM, AND & N б California Corporation; LECHARD WINDOWS aka COYOTE SPRINGS WINDOW & DOOR, LLC, a Nevada Linifed Liability Company; MAGNUM AIR, a Nevada Corporation; MCCONNELL CABINETS, INC., a California Corporation; MUSTANG TILE OF NEVADA, INC., a Nevada Corporation; NEVADA COUNTERTOP CORPORATION, a Nevada Corporation; PREMIER ELECTRIC LLC fka VITA ELECTRIC, a Nevada Limited Liability Company; RCR PLUMBING & MECHANICAL, INC., a Colorado Corporation; S&L ROOFING, INC., a Colorado Corporation; S&L ROOFING, INC., a Colorado Corporation; S.C. DESIGN OF NEVADA, INC., a Nevada Corponation; SUMMIT DRYWALL & PAINT, LLC, a Nevada Limited Liability Company; WESTERN SHOWER DOOR, INC., a California Corporation, ZOES 1 through 50 and ZOE CORPORATIONS, BUSINESS OR GOVBRNMENTAL ENTITIES, 51 through 100, inclusive, inclusive, Third-Party Defendants. 

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| 1 2 | CONSTRUCTION DEFECT COMPLAINT AND DEFENDANT CENTEX HOMES' THIRD   |
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| 3   | COMES NOW Defendants CENTEX HOMES (hereinafter referred to as "CENTEX") by                                |
| 4   | and through its attorneys, LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE, and hereby                           |
| 5   | answers Plaintiffs' First Amended Construction Defect Complaint ("COMPLAINT") as follows:                 |
| 6   | GENERAL ALLEGATIONS   |
| 7   | 1. Answering Paragraphs 2a and 6 of the Complaint, Centex specifically and generally                      |
| 3   | denies each and every allegation contained therein.   |
| ,   | 2. Answering Paragraph 2 of the Complaint, Centex assorts that Paragraph 2 constitutes                    |
| 1   | legal conclusions to which a response is not required. To the extent that Paragraph 2 may be              |
|     | determined to contain factual allegations, Cantex denics each and every allegation contained therein.     |
|     | . 3. Answering Paragraph 1, 7, and 8 of the Complaint, Centex is without sufficient                       |
| l   | information to form a belief as to the truth or faisity of the allegations contained therein, and         |
|     | therefore, denies the same.   |
| -   | 4. Answering Paragraphs 3 and 4 of the Complaint, there is no response required.                          |
|     | 5. Answering Paragraphs 5, 9, and 10 of the Complaint, Centex admits that Defendant                       |
| I   | CENTEX HOMES is a Nevada General Partnership authorized to do business in the State of                    |
| 1   | Nevada, and has conducted business within the County of Washoe, State of Nevada relating to the           |
| Į   | subject properties. As for any other allegations therein Centex denies generally and specifically,        |
|     | FIRST CAUSE OF ACTION   |
|     | (Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1<br>through 400) |
|     | 6: Answering Paragraph 11 of the Complaint, Centex repeats and reallages its answers to                   |
| l   | Paragraphs 1 through 10, inclusive, and incorporates the same by reference as though fully set forth      |
| l   | herein,   |
|     | 7. Answering Paragraph 12 of the Complaint, Centex is without sufficient information to                   |
|     | form a belief as to the truth or falsity of the allegations contained therein, and therefore, denies the  |
|     | seme.   |
|     | 5   |
| Ľ   |   |

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8. Answering Paragraph 13 of the Complaint, Centex admits that Defendant CENTEX 2 HOMES is a Nevada General Partnership authorized to do business in the State of Nevada, and has conducted business within the County of Washoe, State of Nevada relating to the subject properties and based upon information given the homes were constructed in conformity with the applicable building codes and the specific codes and regulations of Washoe County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.

7 9. Answering Paragraphs 14, 15, 16, 17, and 18 of the Complaint, Centex asserts that 8 Paragraphs 14, 15, 16, 17, and 18 constitute legal conclusions to which a response is not required. 9 To the extent that Paragraphs 14, 15, 16, 17, and 18 may be determined to commin factual allegations, Centex denies each and every allegation contained therein. 10

#### SECOND CAUSE OF ACTION

(Breach of Implied Warranties-Third Party Beneficiary as against Does 1 (hrough 400)

13 10. Answering Paragraph 19 of the Complaint, Centex repeats and realleges its answers 14 to Paragraphs 1 through 18, inclusive, and incorporates the same by reference as though fully set 15 forth herein.

16 11. Answering Paragraphs 20, 22, 23 and 24 of the Complaint, Centex asserts that 17 Paragraphs 20, 22, 23 and 24 constitute legal conclusions to which a response is not required. To the 18 extent that Paragraphs 20, 22, 23 and 24 may be determined to contain faotual allegations, Centex 19 denies each and every allegation contained therein.

20 12. Answering Paragraph 21 of the Complaint, Centex admits that Defendant CENTEX, 21 HOMES is a Nevada General Partnership authorized to do business in the State of Nevada, and has 22 conducted business within the County of Washoe, State of Nevada relating to the subject properties 23 and based upon information given the homes were constructed in conformity with the applicable 24 building codes and the specific endes and regulations of Washoe County, the approved plans and 25 specifications, and that said structures were and are sound and safe, and would remain so.

#### THIRD CAUSE OF ACTION

(Negligence and Negligence per se As to All Defendants, and Does I through 460)

Answering Paragraph 25 of the Complaint, Centex repeats and realleges its answers to 13.

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|----|---|
| 1  | Paragraphs 1 through 24, inclusive, and incorporates the same by reference as though fully set forth  |
| 2  |   |
| 3  | 14. Answering Paragraphs 26 and 27 of the Complaint, Centux alleges that the allegations              |
| 4  | contained therein call for a legal conclusion and on that basis denies the same. To the extent that   |
| 5  | these paragraphs may be determined to contain factual allegations, Defendant denies each and every    |
| 6  | allegation contained therein.   |
| 7  | 15. Answering Paragraphs 28, 29, and 30 of the Complaint, Centex specifically                         |
| 8  | and generally donics each and every allegation contained therein.                                     |
| 9  | FOURTH CAUSE OF ACTION  |
| 10 | (Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400)              |
| 11 | 16. Answering Paragraph 32 of the Complaint, Centex repeats and realleges its answers to              |
| 12 | Paragraphs 1 through 31, inclusive, and incorporates the same by reference as though fully set forth  |
| 13 | herein.   |
| 14 | 17. Answering Paragraphs 33 of the Complaint, Center alleges that the allegatious                     |
| 15 | contained therein call for a legal conclusion and on that basis denies the same. To the extent that   |
| 16 | these paragraphs may be determined to contain factual allegations, Defendant denies each and every    |
| 17 | allegation contained therein.   |
| 18 | 18. Answering Paragraphs 34, 35, and 36 of the Complaint, Centex specifically                         |
| 19 | and generally denies each and every allogation contained therein.                                     |
| 20 | AFFIRMATIVE DEFENSES  |
| 21 | FIRST AFFIRMATIVE DEFENSE   |
| 22 | CENTEX alleges that the COMPLAINT and each and every cause of action stated therein                   |
| 23 | fails to state facts sufficient to constitute a cause of action, or any cause of action, as against   |
| 24 | CENTEX.   |
| 25 | SECOND AFFIRMATIVE DEFENSE  |
| 26 | CENTEX is informed and believes and thereon alleges that Plaintiffs' alleged damages, if              |
| 27 | any, were and are, wholly or partially, contributed or proximately caused by Plaintiffs' recklessness |
| 28 | and negligence, thus barring or diminishing Plaintiffs' recovery herein according to principles of    |
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| 1   | comparative negligence. |
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| . 6 |                         |

### THIRD AFFIRMATIVE DEFENSE

CENTEX is not legally responsible for the acts and/or omissions of those other Defendants named herein as fictitious Defendants.

#### FOURTH AFFIRMATIVE DEFENSE

6 CENTEX is informed and believes and thereon alleges that if Plaintiffs herein suffered or 7 sustained any loss, injury, damage or detriment, the same was directly and proximately caused and 8 contributed to by the breach of warranty, conduct, acts, omissions, activities, carelessness, 9 reaklessness, negligence, and/or intentional misconduct of the said Plaintiffs, thereby completely or 10 partially barring Plaintiffs' recovery herein.

#### FIFTH AFFIRMATIVE DEFENSE

| 12 | CENTEX is informed and believes and thereon alleges that it is not legally responsible in any        |
|----|--|
| 13 | fashion with respect to damages and injuries claimed by the Plaintiffs in the COMPLAINT;             |
| 14 | however, if CENTEX is subjected to any liability to the Plaintiffs or any other Third Party          |
| 15 | Complainant herein, it will be due, in whole or in part, to the breach of warranty, acts, omissions, |
| 16 | activities, carelessness, reaklessness and negligence of others; wherefore, any recovery obtained by |
| 17 | Plaintiffs or any Third Party Complainant herein against CENTEX should be reduced in proportion      |
| 18 | to the respective negligence and fault and legal responsibility of all other parties, persons and    |
| 19 | entities, their agents, servants and employees who contributed to and/or caused any such injury      |
| 20 | and/or damages, in accordance with the law of comparative negligence; the liability of CENTEX, if    |
| 21 | any, is limited in direct proportion to the percentage of fault actually attributed to CENTEX.       |
| 22 | SIXTH AFFIRMATIVE DEFENSE  |
| 23 | CENTEX is informed and believes and thereon alleges that at the time and place of the                |
| 24 | incident alleged in Plaintiffs' COMPLAINT, Plaintiffs knew of and fully understood the danger and    |
| 25 | risk incident to their undertaking, including but not limited to the construction and/or purchase of |
| 26 | real property, but despite such knowledge, they freely and voluntarily assumed and exposed           |
| 27 | themselves to all risk of harm and the consequential injuries and damages, if any, resulting         |
| 28 | therefrom.   |
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#### SEVENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that the COMPLAINT and each and every cause of action contained therein is barred by the applicable Statutes of Repose.

#### EIGHTH AFFIRMATTVE DEFENSE

5 CENTEX is informed and believes and thereon alleges that as to each alleged cause of action,
6 Plaintiffs have failed, refused and neglected to take reasonable steps to mitigate their alleged
7 damages, if any, thus barring or diminishing Plaintiffs' recovery herein.

#### NINTH AFFIRMATIVE DEFENSE

9 CENTEX is informed and believes and thereon alleges that the COMPLAINT and each and 10 every cause of action contained therein is barred by the applicable Statutes of Limitation.

#### TENTH AFFIRMATIVE DEFENSE

12 CENTEX is informed and believes and thereon alleges that Plaintiffs unreasonably delayed 13 the filing and subsequent service of the COMPLAINT and the notification of CENTEX of the 14 alleged defects in the subject property, negligence, and the bases for the causes of action alleged 15 against them, all of which has unduly and severely prejudiced CENTEX in its defense of the action, 16 thereby barring or diminishing Plaintiffs' recovery herein under the Dootrine of Estoppel.

#### **ELEVENTH AFFIRMATIVE DEFENSE**

18 CENTEX is informed and believes and thereon alleges that Plaintiffs unreasonably delayed 19 the filling and subsequent service of the COMPLAINT and the notification of CENTEX of the 20 alleged defects in the subject property, negligence, and the bases for the causes of action alleged 21 against it, all of which has unduly and severely prejudiced CENTEX in its defense of the action, 22 thereby barring or diminishing Plaintiffs' recovery herein under the Doctrine of Walver. 23 TWELFTH AFFIRMATIVE DEFENSE

# CENTEX is informed and believes and thereon alleges that Plaintiffs unreasonably delayed

25 the filing and subsequent service of the COMPLAINT and the notification of CENTEX of the 26 alleged defects in the subject property, negligence and the bases for the causes of action alleged 27 against it, all of which has unduly and severely prejudiced CENTEX in its defense of the action, 28 thereby barring or diminishing Plaintiffs' recovery herein under the Doctrine of Laches.

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#### THIRTEENTH AFFIRMATIVE DEFENSE

2 CENTEX is informed and believe and on that basis alloges that Plaintiffs have failed to join all necessary and indispensable parties to this lawsuit. 3

#### FOURTEENTH AFFIRMATIVE DEFENSE

5 CENTEX is informed and believes and thereon alleges that the injuries and damages of б which Plaintiffs complain were proximately caused by, or contributed to, by the acts of other Third-Party Defendants, Cross-Defendants, persons and/or other entities, and that said acts were an 7 intervening and superseding cause of the injuries and damages, if any, of which Plaintiffs complains, thus barring Plaintiffs from any recovery against CENTEX. 9

#### FIFTEENTH AFFIRMATIVE DEFENSE

11 CENTEX is informed and believes that Plaintiffs, or other persons or entities other than 12 CENTEX without the knowledge or consent of CENTEX, altered the subject property, and to the 13 extent that Plaintiffs have incurred or suffered any damages, which CENTEX denics, such alleged damages were solely and proximately caused by such alteration. 14

#### SIXTEENTH AFFIRMATIVE DEFENSE

The damages referred to in the COMPLAINT, and each and every purported claim for relief 16 17 contained therein, were proximately caused or contributed to by the negligence of persons and/or 18 entities other than CENTEX in failing to exercise the proper care which a prudent person under the 19 same or similar circumstances would have exercised, and/or by the wrongful acts of persons and/or 20 entities other than CENTEX, and if CENTEX acted in any manner negligently or wrongfully (which 21 supposition is made only for purposes of this defense, without admitting same to be true), the 22 aforesaid negligence and/or wrongful acts of persons and/or entitles other than CENTEX constituted an intervening and superseding cause of the damages alleged in the COMPLAINT. 23

#### SEVENTEENTH AFFIRMATIVE DEFENSE

It has been necessary for CENTEX to retain the services of an attorney to defend this action 25 26 and it is entitled to a reasonable sum as and for attorneys' fees.

#### EIGHTEENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that the claims of Plaintiffs are

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| 1  | reduced, modified and/or barred by the Dootrine of Unolean Hands.                                   |    |
|----|---|----|
| 1  | NINETEENTH AFFIRMATIVE DEFENSE  |    |
| 3  | CENTEX is informed and believes and thereon alloges that any and all events, happenings,            |    |
| 4  | injuries and damages alleged by Plaintiffs were a direct result of an act of God.                   |    |
| 5  | TWENTIETH AFFIRMATIVE DEFENSE   |    |
| 6  | Plaintiffs' has not provided timely notice of warranty claims.                                      |    |
| 1  | TWENTY-FIRST AFFIRMATIVE DEFENSE  |    |
| 8  | Plaintifis' have failed to comply with Chapters 40 and 116 of the Nevada Revised                    |    |
| 9  | Statutes as amended and are therefore barred from and without standing to bring this lawanit and if |    |
| 10 | permitted to bring this lawsuit cannot avail themselves to the damage provisions of NRS 40.600 et.  |    |
| 11 | seq.  |    |
| 12 | TWENTY-SECOND AFFIRMATIVE DEFENSE   |    |
| 13 | Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not have                 |    |
| 14 | been alleged herein insofar as sufficient facts were not available for responding party after       |    |
| 15 | reasonable inquiry upon the filing of CENTEX's Answer to Plaintiffs' COMPLAINT, and therefore       |    |
| 16 | CENTEX reserves the right to emend its Answer to allege additional affirmative defenses, if         |    |
| 17 | subsequent investigation so warrants.   |    |
| 18 | CENTEX HOMES THIRD-PARTY COMPLAINT  |    |
| 19 | COME NOW Defendants/Third-Party Plainliffs CENTEX HOMES (hereinafter collectively                   |    |
| 20 | referred to as "CENTEX"), by and through their attorneys of record, LEE, HERNANDEZ,                 |    |
| 21 | BROOKS, GAROFALO & BLAKB, APC and file their Third-Party Complaint against, BFB                     |    |
| 22 | ENTERPRISES, INC., a Nevada Corporation; CAMPBELL CONCRETE OF NEVADA, INC., a                       | ١, |
| 23 | Nevada Corporation; VERMAX, INC. dba CENTURY CAST PRODUCTS, a Utah Corporation;                     | 1  |
| 24 | LUKESTAR CORPORATION dba CHAMPION MASONRY, a Nevada Corporation; CHARMAC,                           | 1  |
| 25 | INC., a California Corporation; CLASSIC ELECTRIC, INC., a Nevada Corporation; DESERT                | â  |
| 26 | LUMBER, LLC, a Nevada Limited Lizbility Company; DRYWALL SYSTEMS, INC., a Nevada                    |    |
| 27 | Corporation; EXECUTIVE PLASTERING, INC., a Novada Corporation; BRANDON, LLC dba                     | 2  |
| 28 | FIRST PREMIER DRYWALL & PAINT, a Novada Limited Liability Company; GRANITE                          | 5  |
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WORLD, LTD., a Nevada Limited Liability Company; KENNINGTON PLASTERING NEVADA, 1 2 a Nevada Corporation; LARRY METHVIN INSTALLATIONS, INC., a California Corporation; 3 LEGEND WINDOWS aka COYOTE SPRINGS WINDOW & DOOR, LLC, a Nevada Limited Liability Company; MAGNUM AIR, a Nevada Corporation; MCCONNELL CABINETS, INC., a 4 5 California Corporation; MUSTANG TILE OF NEVADA, INC., a Nevada Corporation; NEVADA 6 COUNTERTOP CORPORATION, a Nevada Corporation; PREMIER ELECTRIC LLC fka VITA RLECTRIC, a Nevada Limited Liability Company; RCR PLUMBING & MECHANICAL, INC., a 7 8 California Corporation; S&L ROOFING, INC., a Colorado Corporation; S.C. DESIGN OF 9 NEVADA, INC., a Nevada Corporation; SUMMIT DRYWALL & PAINT, LLC, a Nevada Limited Liability Company; WESTERN SHOWER DOOR, INC., a California Corporation, ZOES 1 through 10 50 and ZOE CORPORATIONS, BUSINESS OR GOVERNMENTAL ENTITIES, 51 through 100, 11 inclusive, (hereinafter collectively referred to as "THIRD-PARTY DEFENDANTS"); complains and 12 13 alleges the following:

#### I.

#### GENERAL ALLEGATIONS

At all times relevant herein, THIRD-PARTY DIFFENDANTS, and each of them,
 ware entities doing business in the State of Nevada and designed and/or developed and/or performed
 construction related work and/or supplied materials for the construction improvements to real
 property (hereinafter "SUBJECT PROPERTY") which is the subject of and are more throughly
 described in Plaintiffs' FIRST AMENDED COMPLAINT.

2. The THIRD-PARTY DEFENDANTS, and each of them, were subcontractors and/or
 design professionals who, developed, designed, performed construction activities or provided
 metanials and/or other items which were installed into and/or became a part of said subject
 properties.

CENTEX is informed and believes, and thereon alleges, that the true names and
 capacities, whether individual, corporate, associate or otherwise of DOES 1 through 500 are
 unknown to CENTEX who therefore sues said THIRD-PARTY DEFENDANTS by said fictitious
 names. THIRD-PARTY DEFENDANTS designated as DOES 1 through 500 as being responsible in

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1 some manner as an entity developing, designing, performing construction related activities and/or 2 providing materials for construction of the subject properties and are responsible for the events and 3 happenings described in Plaintiffs' FIRST AMENDED COMPLAINT, and in this Third-Party 4 Complaint which proximately caused damages to CENTEX as alleged herein. CENTEX is informed 5 and believes that each of the THIRD-PARTY DEFENDANTS designated as DOE in some manner 6 developed, performed work, installed, designed, constructed or supplied materials to the subject .7 properties, pursuant to agreements between CENTEX and THIRD-PARTY DEFENDANTS and 8 each of them or otherwise. CENTEX will ask leave of Court to amend this Third-Party Complaint to 9 insert the true names and capacities of the DOES and state appropriate charging allegations, when that information has been ascertained. 10

11 That CENTEX specifically complains and alleges causes of action against the specific 4. entity, or entities, that developed, performed work, installed, designed, constructed, supplied 12 13 materials and/or were otherwise responsible for the subject real properties and the improvements 14 niade thereon. As of the filing of this Third-Party Complaint, CENTEX is not sure as to whether 15 those entities are individuals, a partnership, a limited partnership, a corporation, an association of 16 individuals and business, or some other form of business ownership, and as soon as the exact nature 17 of the entity or entities that developed, performed work, installed, designed, constructed, supplied 18 materials and/or were otherwise rasponsible for the subject real property and the improvements made 19 thereon are known, CENTEX will amend its Third-Party Complaint and will substitute the exact 20 names of the proper THIRD-PARTY DEFENDANTS in place of DOES 1 through 500.

The work being done by or materials supplied by each of the THIRD-PARTY
 DEFENDANTS was pursuant to a contract to complete construction work, provide materials, design
 services, and/or other functions associated with construction pursuant to design plans and

24 specifications of the subject properties referenced above.

25 6. That while working at the site or on the project, THIRD-PARTY DEFENDANTS 26 acted in a negligent and/or carcless manner, performed acts which resulted in breached warranties to 27 CENTEX and/or others, including, but not limited to those of fitness and merchamability, and/or 28 supplied defective products in an unreasonably dangerous and defective condition, which allegedly

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injured and/or caused damages to Plaintiffs, as alleged in Plaintiffs' SECOND AMENDED. Said 1 2 acts have also resulted in damages to CENTEX by subjecting CENTEX to suit. 3 IL. 4 FIRST CLAIM FOR RELIEF 5 (Negligence) 6 7. CENTEX refers to, realleges, and incorporates herein the allegations of Paragraphs 1 7 through 6 of this Third-Party Complaint as though fully set forth herein. 8 8. . THIRD-PARTY DEFENDANTS, and each of them, owed a contractual and/or legal 9 duty to CENTEX to exercise due and reasonable care in the design, construction and/or development. of the subject properties. THIRD-PARTY DEFENDANTS also had a legal duty to abide by local 10 11 construction practices, industry staudards, governmental codes and restrictions, manufacturer 12 requirements, Washoe County Building Codes, product specifications and/or the laws of the State of 13 Nevada. 14 9. If the subject properties are defectively designed, developed and/or constructed, 15 THIRD-PARTY DEPENDANTS, and each of them, are responsible for such defects in that they 16 failed to act reasonably in the design, development and construction of the subject properties, thereby 17 breaching their duty owed to CENTEX. 18 10. If the subject properties are defectively designed, developed and/or constructed, the 19 acts or omissions of THIRD-PARTY DEFENDANTS, and each of them, were the direct and 20 proximate cause of any and all damages incurred by CENTEX. 21 CENTEX is informed and believes and on that basis alloges that Plaintiffs' damages, 11. 22 if any, were proximately caused by THIRD-PARTY DEFENDANTS, and each of them, and that 23 said THIRD-PARTY DEFENDANTS are liable for the damages sought by Plaintiffs in its FIRST 24 AMENDED COMPLAINT. 25 12. The breach(es) of the aforementioned duties by each THIRD-PARTY DEFENDANT 26 as described in Paragraphs 8 through 11 above was and is the actual and proximate cause of damages 27 to CENTEX in excess of \$10,000. 28 13. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, 14

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BROOKS, GAROFALO & BLAKE, APC, to defend the Plaintiffs' action and to bring this action. 2 CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to the contractual provisions of the agreements and Nevada law.

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#### SECOND CLAIM FOR RELIEF

#### (Breach of Contract)

7 14. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs 1 8 through 13 as though fully set forth herein.

9 CENTEX is informed and believes and thereon alleges that it entered into written, 15, 10 oral and implied agreements with THIRD-PARTY DEFENDANTS.

11 CENTEX has fully performed all conditions, covenants and promises required by 16, -12 them to be performed in accordance with the terms and conditions of said written, oral and implied 13 agreements.

14 17. CENTEX is informed and believes and thereon alleges that THIRD-PARTY DEFENDANTS, and each of them, have breached said written, oral and implied agreements by 15 16 failing to perform their work (a) in compliance with the applicable standard of care, (b) in a good and 17 workmanlike manner, and (c) in a manner that was consistent with their legal obligations as set forth 18 in the various written agreements. Further, CENTEX is informed and believes and thereon alleges 19 that THIRD-PARTY DEFENDANTS have breached their agreements by (1) failing to defend and 20 indomnify CENTEX as a result of Plaintiffs' FIRST AMENDED COMPLAINT;(2) failing to name 21 CENTEX as an additional insured as required under the agreements and (3) by failing to take 22 appropriate steps to make sure that appropriate additional insured endorsements and insurance 23 coverage had been obtained.

24 18. As a direct and proximate result of THIRD-PARTY DEFENDANTS' breach of 25 contract, CENTEX has been damaged in a sum which is currently unascertainable but in excass of 26 \$10,000. CENTEX will seek leave of court to amend this Third-Party Complaint when such sums 27 can be reasonably ascertained.

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It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, 19.

**ISIC 1425** 

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BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action.
 CENTEX is entitled to recover attorneys' fees and costs incorred herein pursuant to NRS 18.010; the
 contractual provisions of the agreements and Nevada law.

#### IV.

#### THIRD CLAIM FOR RELIEF

#### (Breach of Express and Implied Warranties)

 CENTEX refers to, realleges, and incorporates herein by reference Paragraphs 1 through 19 as though fully set forth herein.

9 21. CENTEX is informed and believes and thereon alleges that pursuant to the
agreements between CENTEX and THIRD-PARTY DEFENDANTS, THIRD-PARTY
DEFENDANTS impliedly and expressly warranted that the work would be done in a good,
workmanlike, and substantial manner, in full accordance with the provisions and conditions of the
agreements and the plans and specifications.

22. CENTEX relied upon said warranties and believed that said work was performed
 pursuant to said agreements and would be of a first class and workmanlike manner for its intended
 use and purpose.

CENTEX is informed and believes and thereon alleges that THIRD-PARTY
 DEFENDANTS, and each of them, breached said agreements as it has been alleged by Plaintiffs in
 the underlying action herein, that numerous deficiencies exist at the subject property as set forth in
 Plaintiffs' SECOND AMENDED COMPLAINT on file herein, which alleged deficiencies are
 incorporated herein by reference.

22 24. As a proximate result of the breach of express and implied warranties by THIRD23 PARTY DEFENDANTS, and each of them, CENTEX alleges that it will suffer damages in a sum
24 equal to any sums paid by way of settlement, or in the alternative, judgment rendered against
25 CENTEX in the underlying action based upon Plaintiffs' FIRST AMENDED COMPLAINT.

25. This Third-Party Complaint will serve as notice of such conditions and CENTEX is
27 informed and believes and thereon alleges that THIRD-PARTY DEFENDANTS, and each of them,
28 declined to acknowledge the responsibilities to repair the alleged deficiencies as referenced above.

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 26. The breach(es) of the aforementioned warranties by each THIRD-PARTY

 2
 DEFENDANT as described in Paragraphs 21 through 25 above was and is the actual and proximate

 3
 cause of damages to CENTEX in excess of \$10,000.

4 27. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ,
5 BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action.
6 CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the
7 contractual provisions of the agreements and Nevada law.

### V. FOURTH CLAIM FOR RELIEF

#### (Implied Indemnity)

CENTEX refers to, realleges, and incorporates herein by reference Paragraphs 1
 through 27 as though fully set forth herein.

29. CENTEX is informed and believes and thereon alloges that CENTEX entered into
 written, oral and implied agreements with the THIRD-PARTY DEPENDANTS.

30. By reason of the foregoing, if Plaintiffs recover against CENTEX, then CENTEX is
 entitled to implied contractual indemnity from THIRD-PARTY DEFENDANTS, and each of them,
 for damages sustained by Plaintiffs, if any, for any sums paid by way of settlement, or in the
 alternative, judgment rendered against CENTEX in the underlying action based upon Plaintiffs'
 SRCOND AMENDED COMPLAINT or any Cross-Claims or Third-Party Claims filed herein.

31. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ,
BROOKS, GAROFALO & BLAKE to defend Plaintiffs' action and to bring this action. CENTEX
is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the
contractual provisions of the agreements and Nevada law,

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#### FIFTH CLAIM FOR RELIEF

#### (Express Indomnity)

32. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs 1
 5 through 31 as though fully set forth herein.

G 33. The damages alleged and the claims made by Plaintiffs against CENTEX are the
 7 proximate result in whole or in part of the acts of THIRD-PARTY DEFENDANTS and each of
 8 them.

9 34. As a result of the Plaintiffs' claims against CENTEX, CENTEX may be held liable to
 10 Plaintiffs for all or part of said damage which may be sustained, in which event, CENTEX is entitled
 11 to be indemnified by THIRD-PARTY DEFENDANTS and each of them.

It has become necessary for CENTEX to bring this Third-Party Complaint, and
 therefore, CENTEX is entitled to recover reasonable attorney's fees and costs of suit.

36. Pursuant to the terms of the agreements entered into between CENTEX and THIRD PARTY DEFENDANTS, CENTEX has rights of indemnification from the THIRD-PARTY
 DEFENDANTS and each of them.

Pursuant to the terms of the agreements entered into between CENTEX and THIRD PARTY DEFENDANTS, THIRD-PARTY DEFENDANTS and each of them have duties to defend
 CENTEX in the action filed by Plaintiffs.

38. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ,
 BROOKS, GAROFALO & BLAKE to defend Plaintiffs' action and to bring this action. CENTEX
 ls entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the
 contractual provisions of the agreements and Nevada law.

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| 1  | УII.   |
|----|--|
| 2  | SIXTH CLAIM FOR RELIEF   |
| 3  | (Equitable Indomnity)  |
| 4  | 39. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs !                       |
| 5  | through 38 as though fully set forth herein.   |
| 6  | 40. CENTEX is informed and believes and thereon alleges that THIRD-PARTY                                 |
| 7  | DEFENDANTS and DOES 1 through 500, inclusive, are and at all times herein mentioned were,                |
| 8  | either individuals, sole proprietorships, partnerships, registered professionals, corporations, or other |
| 9  | legal antities which are licensed to do and were doing business in the County of Clark, State of         |
| 10 | Nevada, at all times relevant to the subject matter of this action.                                      |
| 11 | 41. CENTEX is informed and believes and thereon alleges that the defects and damages                     |
| 12 | alleged by Plaintiffs in their FIRST AMENDED COMPLAINT involve defects and damages to or                 |
| 13 | destruction of property and CENTEX is further informed and believes and thereon alleges that said        |
| 14 | damages were caused by THIRD-PARTY DEFENDANTS, and each of them, arising out of and in                   |
| 15 | connection with, the performance of THIRD-PARTY DEFENDANTS' operations and work at the                   |
| 16 | subject property,  |
| 17 | 42. In equity and good conscience, if Plaintiffs recover against CENTEX herein, then                     |
| 8  | CENTEX is entitled to equitable indemnity, apportionment of liability and contribution among and         |
| 19 | from the THIRD-PARTY DEFENDANTS, and each of them, according to their respective faults for              |
| 20 | the damages allegedly sustained by Plainliffs, if any, by way of sums paid by settlement, or in the      |
| 28 | alternative, judgment rendered against CENTEX based upon Plaintiffs' FIRST AMENDED                       |
| 22 | COMPLAINT.   |
| 23 | 43. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ,                           |
| 4  | BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action.               |
| 5  | CENTEX is entitled to recover attomeys' fees and costs incured herein pursoant to NRS 18.010; the        |
| 26 | contractual provisions of the agreements and Nevada law.   |
| 27 | 111  |
| 28 | 111  |
|    |  |

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|----|---|
| 1  | VIII.   |
| 2  | SEVENTH CLAIM FOR RELIEP  |
| 3  | (Contribution)  |
| 4  | 44. CENTEX refers to, realleges, and incorporates horein by reference Paragraphs 1                  |
| 5  | through 43 as though fully set forth herein.  |
| 6  | 45. Based upon the acts and/or omissions of the THIRD-PARTY DEFENDANTS, and                         |
| 7  | each of them, if a judgment is rendered on behalf of Plaintiffs, CENTEX is entitled to contribution |
| 8  | from each of the THIRD-PARTY DEFENDANTS in an amount proportionate to the amount of                 |
| 9  | negligence and/or fault attributable to each of the THIRD-PARTY DEFENDANTS.                         |
| 10 | 46. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ,                      |
| 11 | BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintifis' action and to bring this action.          |
| 12 | CENTEX is entitled to recover attorneys' fees and costs insurred herein pursuant to NRS 18.010; the |
| 13 | contractual provisions of the agreements and Nevada law.  |
| 14 | vim.  |
| 15 | EIGHTH CLAIM FOR RELIEF   |
| 16 | (Appartionment)   |
| 7  | 47. CENTEX repeat and reallege the allegations of Paragraphs 1 through 46 of the Third-             |
| 8  | Party Complaint as though fully set forth harein.   |
| 9  | 48. CENTEX are entitled to an apportionment of liability among THIRD-PARTY                          |
| 0  | DEFENDANTS, and each of them.   |
| 1  | 49. It has been necessary for CENTEX to retain the services of an attorney to bring this            |
| 2  | action. Accordingly, CENTEX are entitled to recover their reasonable attorneys' fees and costs      |
| 3  | incurred herein.  |
| 4  | IX.   |
| 5  | NINTH CLAIM FOR RELIEF  |
| 6  | (Declaratory Reliaf)  |
| 7  | 50. CENTEX refers to, realieges, and incorporates herein by reference Paragraphs 1                  |
| 1  | through 49 as though fully set forth herein.  |
|    | 20  |

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1 51. A dispute has arisen and actual controversy now exists between CENTEX and 2 THIRD-PARTY DEFENDANTS, and each of them, as to their rights and liabilities with respect to any ultimate responsibility in the underlying action, and with respect to the rights to receive, or duty 3 to give, indemnification in proportion to their comparative fault, if any. CENTEX contends that if it 4 5 suffers judgment in the underlying action, or if it pays monies by way of reasonable compromise of said claim, CENTEX is emitted to be indemnified by THIRD-PARTY DEPENDANTS and to 6 7 Judgment over and against them, to the extent that CENTEX's responsibility in the underlying action 8 exceeds their percentage of negligence, fault or liability, if any. CENTEX is informed and believes 9 that THIRD-PARTY DEFENDANTS contend to the contrary. Therefore, an actual controversy 10 exists relative to the legal duties and rights of the respective parties pursuant to their written 11 agreements, which controversy CENTEX requests the Court to resolve. 12 52. All of the rights and obligations of the parties hereto arose out of what is actually one 13 transaction or one series of transactions, happenings or events, all of which can be settled and 14 determined in a judgment in this one action. CENTEX alleges that an actual controversy exists 15 between the parties to the Third-Party Complaint under the circumstances alleged. A declaration of 16 rights, responsibilities and obligations of CENTEX and THIRD-PARTY DEFENDANTS, and each 17 of them, is essential to determine their respective obligations in connection with the principal action 18 and CENTEX has no true and speedy remedy at law of any kind. 19 It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, 53. 20 BROOKS, GAROFALO & BLAKE, APC., to defend Plaintiffs' action and to bring this action. 21 CENTEX is entitled to recover attorneys' fees and costs incurred herein. 22 WHEREFORE, CENTEX prays for judgment against Plaintiffs as follows: 23 1. That Plaintiffs take nothing by virtue of its FIRST AMENDED COMPLAINT; 24 2. For the costs of suit incurred herein; 25 3. For attomeys' fees and costs; and 26 4 For such other and further relief as the court deems just, equitable and proper. 27 111 28 111 21

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|   |             | EREFORE, CENTEX preys for judgment against THIRD-PARTY DEFENDANTS,                      |
|---|-------------|---|
| 2 | and each of | them, as follows:   |
| 3 | 1,          | For general and special damages in excess of \$10,000.00;                               |
| 1 | 2.          | For indemnity for all damages and/or economic losses that Plaintiffs or any other       |
|   |             | Third-Party Complainant, Cross-Claimant, or Counter-Claimant recovers against           |
| I | - *         | CENTEX by way of judgment, order, settlement, compromise or trial;                      |
| ł | 3.          | For reasonable attorneys' fees, costs, expert costs and expenses, pursuant to statutory |
|   |             | law, common law, and contract law;  |
| l | 4.          | For prejudgment interest;   |
|   | 5.          | Por consequential damages in excess of \$10,000.00;                                     |
| I | 6.          | For incidental damages in excess of \$10,000.00;  |
|   | 7.          | For a declaration of rights and obligations as between THIRD-PARTY PLAINTIFF            |
| ľ |             | and THIRD-PARTY DEFENDANTS;   |
|   | 8.          | For contribution pursuant to NRS 17.225;  |
|   | 9.<br>DAT   | For such other and further relief as this Court may deem just, equitable and proper.    |
|   | har         | LEF. HERNANDEZ. BROOKS.   |
|   |             | GAROFALO & BLAKE  |
|   | 6           | 112   |
|   |             | By:<br>DAVID'S. LBE, BSQ.   |
| l |             | Nevada Bas No. 6033<br>DAVID J. WEDEMEYER, ESQ  |
|   |             | Novada Bar No. 11318  |
| l |             | 7575 Vegas Drive, Suite 150<br>Las Vegas, Nevada 89128                                  |
|   |             | Attorneys for Defendant   |
|   |             | CENTEX HOMES  |
|   |             |   |
|   |             |   |
|   |             |   |
|   |             |   |
|   |             | 22  |

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## EXHIBIT 99

Homeowners/Close of Escrow Matrix (ISIC 1433-1446)

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|    |  | UNDE     | GE ET    | ALV               | CENT               | EX | HOMES IN                  | E PARKS DEVEL                | 9EMENER                          |         |
|----|--|----------|----------|-------------------|--------------------|----|---------------------------|------------------------------|----------------------------------|---------|
|    | Current Homewhee   |          | V        | Home              | Nort<br>owners     |    | SVEGAS NV S<br>SEICE ESCR | 9084<br>OW MATRIX            | Original Romeowner               | a V     |
|    |  |          |          | Physe             | - Los              |    |                           |                              | (E differentition<br>(urrent)    | COL     |
| 1. | (Jarvis, Sandra)<br>ADJ Investments, LLC   | 2/24/04  | 2/23/01  | SB/<br>4          | Unit 1,<br>Lot 160 | 3  | 124-22-310-044            | 423 Regal Robin Way          | Highee, Steven & Staci           | 2/23/01 |
| 2. | Amstrong, Nathan   | 03/14/02 | 3/14/02  | WM/<br>11         | Unit 3<br>Lot 253  | 6  | 124-22-313-082            | 6668 Majestic Pearl Pl.      |                                  | 1       |
| 3. | Arroyo, Jose and<br>Priscilla  | 4/04/01  |          | SB/<br>2          | Unit I<br>Lot 130  | 3  | 124-22-310-029            | 358 Loma Marsh Ct.           |                                  | 1       |
| 4. | Beason, Jenelle  | 10/24/02 | 7/31/01  | GC/<br>5          | Unit 5<br>Lot 25   | 1  | 124-22-311-025            | 336 Horse Pointe Ave.        | Goodwin, Shane &<br>Jessica      | 7/31/01 |
| 5. | Brandege, Christopher<br>& Valerie   | 9/29/08  | 9/07/01  | SÍB/<br>8         | Unit 2,<br>Lot 49  | 1  | 124-22-411-022            | 6543 Mammoth Canyon<br>Place | Lester, Lisa                     | 6/06/02 |
| 6. | Cabual, Renor  | 7/12/05  | 3/01/01  | SB/<br>3          | Unit 1,<br>Lot 173 | 4  | 124-22-310-067            | 352 Regal Robin Way          | Barnard, Kevin                   | 3/01/01 |
| 7. | Calhoun, Herold &<br>Peggy   | 12/21/01 | 12/21/01 | <b>SB</b> /<br>11 | Unit 4<br>Lot 79   | 1  | 124-22-314-002            | 721 Regal Robin Way          |                                  |         |
| 8, | Cervantes, Joseph and<br>Rosemaire   | 12/27/01 | 12/27/01 | WM/<br>9          | Unit 4<br>Lot 297  | 8  | 124-22-314-041            | 6716 Maple Mesa Street       |                                  |         |
| 9. | Cherchio, Richard and<br>Gloria<br>417 Horse Pointe Ave.<br>No. Las Vegas, NV<br>89084 | 10/18/04 | 8/27/01  | GC/<br>6          | Unit 5<br>Lot 66   | 2  | 124-22-311-066            | 413 Horse Pointe Ave.        | Purcell, Joshua K. and<br>Rachel | 8/27/01 |

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|     | PE   | (ENG)2   |          |          |                    |       |                | ERARKSIDEVI            |  |         |
|-----|--|----------|----------|----------|--------------------|-------|----------------|------------------------|--|---------|
|     |  |          | V        |          | Non                | n Las |                | 9084                   |  | Y       |
| 0   | Current Homeowner  | COL      | NOC      | Se light | Unit<br>Lat        |       | Parcel No.     | Address                | Original Homeowner<br>(if different that : |         |
| 10. | Cherchio, Richard and<br>Gloria<br>417 Horse Pointe Ave.<br>No. Las Vegas, NV<br>89084 | 8/30/01  | 8/30/01  | GC/<br>6 | Unit 5<br>Lot 65   | 2     | 124-22-311-065 | 417 Horse Pointe Ave.  |  |         |
| 11. | Cherchio, Richard and<br>Gloria<br>417 Horse Pointe Ave.<br>No. Las Vegas, NV<br>89084 | 2/26/01  | 9/13/01  | GC/<br>6 | Unit 5<br>Lot 18   | 1     | 124-22-311-018 | 422 Horse Pointe Ave.  | Tantamjarik, Pumipak<br>& Wawan            | 9/13/01 |
| 12. | Courcy, Hitomi and<br>Shields, Steve   | 5/28/09  | 6/18/01  | WM/<br>2 | Unit 3<br>Lot 280  | 7     | 124-22-313-055 | 621 Painted Opus St.   | Standridge, Bill &<br>Patricia             | 6/18/01 |
| 13. | Daum, Richard &<br>Margaret Fam Tr<br>Daum, Richard &<br>Margaret, Trs                 | 2/01/91  | 2/01/01  | SB/<br>4 | Unit I<br>Lot 157  | 3     | 124-22-310-047 | 435 Regal Robin Way    |  |         |
| 14, | Davis, Kyle & Rebekzh  | 11/04/09 | 5/15/01  | GC/<br>3 | Unit 5<br>Lot 39   | 1     | 124-22-311-039 | 6722 Gentle Harbor St. | Tiano, Sylvia                              | 5/15/01 |
| 15. | Donar, Kenneth   | 11/17/09 | 4/30/01  | GC/<br>3 | Unit 5<br>Lot 85   | 2     | 124-22-311-091 | 6713 Gentle Harbor St. | Nelson, Michel A &<br>Maritel S            | 4/30/01 |
| 16. | Dove, David & Laurie   | 12/07/01 | 12/07/01 | WM/<br>9 | Unit 4,<br>Lot 311 | 9     | 124-22-314-055 | 6743 Maple Mesa Street |  |         |

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|------------|---|----------|----------|-----------|--------------------|------|--------------------------------------|---|--|------------------|
| が国際国家      | Current Homeowner   | COE      | NOC      | Comin     | Lot                | Bloc | C Pariet No                          | Address                                       | Original Humeowne<br>Of different than<br>currents | - Initial<br>COE |
| 7.         | Elkins, Theresa<br>5543 Fairgrange Dr.<br>Agoura Hills, CA<br>91301 | 1/20/10  | 9/07/01  | SB/<br>8  | Unit 2<br>Lot 50   | 1    | 124-22-411-021                       | 6547 Manunoth Canyon Pi.                      | Borre, Robert A.                                   | 9/07/01          |
| 18.        | Eubanks, John   | 11/29/01 | 11/29/01 | SB/<br>9  | Unit 2<br>Lot 193  | 5    | 124-22-312-002                       | 506 Regal Robin Way                           |  |                  |
| 19.        | Evans, Mike and<br>Ford, Pietz                                      | 4/12/07  | 11/09/01 | SB/<br>9  | Unit 2<br>Lot 196  | 5    | 124-22-312-005                       | 518 Real Robin Way<br>No. Las Vegas, NV 89084 | Voit, Laurie & Kurt                                | 11/09/01         |
| 20,        | Farr, Johnnie   | 7/19/01  | 7/19/01  | WM/<br>5  | Unti 3<br>Lot 322  | 9    | 124-22-313-048                       | 6653 Maple Mesa St.                           |  |                  |
| 21.        | Farver, Shawn   | 2/27/08  | 3/21/02  | WM/<br>11 | Unit 3,<br>Lot 118 | 2    | 124-22-313-010                       | 6726 Cinnabar Coast La.                       | Melchior, Luthien                                  | 3/21/02          |
| 22.        | Garcia, Jose  | 9/14/01  | 9/14/01  | WM/<br>6  | Unit 4,<br>Lot 102 | 1    | 124-22-314-023                       | 6745 Petrified Forrest Street                 |  |                  |
| 23.        | Gibson, Ann   | 5/17/07  | 9/04/01  | WMJ<br>6  | Unit 4<br>Lot 105  | 1    | 124-22-314-026                       | 5784 Cinnabar Coast Lane                      | Staggs, Richard                                    | 9/04/01          |
| 24.        | Goller, Wilhelmus &<br>Maria  | 1/02/01  | 1/02/01  | SB/<br>3  | Unit 1,<br>Lot 167 | 3    | 124-22-310-037                       | 349 Regal Robin Way                           |  | 1 21             |
| 25.        | Gith, Jennifer  | 6/16/03  | 11/30/01 | SB/<br>10 | Unit 2<br>Lot 200  | 5    | 124-22-312-009                       | 534 Regal Robin Way                           | Stack, Marcus &<br>Jennifer                        | 11/30/01         |
| 26.        | Hall, Cynthia   | 9/17/03  | 9/13/01  | WM/<br>6  | Unit 4<br>Lot 103  | 1    | 124-22-314-024                       | 6749 Petrified Forest St.                     | Hall Cynthia                                       | 9/13/01          |
| 27.        | Hallaway, Tracy<br>Flores, Leonard                                  | 5/27/05  | 6/12/01  | WM/       | Unit 3<br>Lot 112  | 2    | 124-22-313-004                       | 6750 Cinnabar Coast Lu.                       | Flores, Leonard                                    | 6/12/01          |

| POVIN/I |  |          |          |          | Caraon Martines    | The second | servin         | Water and a strength and a strength |  |                |
|---------|--|----------|----------|----------|--------------------|------------|----------------|-------------------------------------|--|----------------|
|         | BR   | UNDE     | GEFT     | ALV      | = Nort             | fill_      |                | E PARENDEVEL<br>904 - 14<br>Ateix   | OPMENT   |                |
| North   | Cutrent Romeswher  | COL      | NOC      | Comm     | Lot                | Black      | Parcel No.     | Adoress                             | Original Homerwher<br>(Ddifferset then<br>curtent) | Initial<br>COE |
| 28.     | Harlass, Shauntele   | 5/24/05  | 7/31/01  | GC/      | Unit 5<br>Lot 32   | 1          | 124-22-311-032 | 308 Horse Pointe Ave.               | Eggleston, Dale                                    | 7/31/01        |
| 29.     | Himmenger, Henry<br>(Jules Harry & Cora A)                                   | 6/29/01  | 6/29/01  | SB/<br>6 | Unit 2<br>Lot 29   | 1          | 124-22-441-042 | 331 River Glikder Ave.              |  |                |
| 30.     | Hines, Bill & Colcen<br>7370 W. 5 Point Way<br>Bellevue, MI 49021-<br>9422   | 1/12/10  | 9/4/01   | SB/<br>7 | Unit 2<br>Lot 149  | 3          | 124-22-411-013 | 418 River Glider Ave.               | Bass, Raye   | 10/07/03       |
| 31.     | Hobbs, George &<br>Donna   | 3/21/03  | 7/02/01  | GC/<br>5 | Unit 5<br>Lot 30   | 1          | 124-22-311-030 | 316 Horse Pointe Ave,               | Williams, Amy                                      | 7/02/01        |
| 32.     | Horvi, Sven and Lena   | 2/01/10  | 10/02/01 | SB/<br>6 | Unit 2<br>Lot 30   | 1          | 124-22-411-041 | 335 River Glider Ave.               | Hunter, Robert H &<br>Ingeborg A                   | 10/02/01       |
| 33.     | Humphrey Michael &<br>Lori   | 10/12/01 | 1/30/01  | GC/      | Unit 5<br>Lot 101  | 2          | 124-22-311-101 | 6666 Montezuma Castle La.           |  | 1/30/01        |
| 34.     | Jimenez, Wendy<br>Guevara, Rafael<br>P. O. Box 570701<br>Las Vegas, NV 89157 | 2/22/05  | 7/19/01  | WMJ<br>5 | Unit 3<br>Lot 325  | 9          | 124-22-313-045 | 6641 Maple Mesa Street              | Sanchez, Mary Ann &<br>Carlos                      | 7/19/01        |
| 35.     | Kelley, Catherine  | 11/06/01 | 11/06/01 | SB/<br>9 | Unit 2,<br>Lot 192 | \$         | 124-22-312-001 | 502 Regal Robin Way                 |  |                |

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| 宿望  | BR  |          |          |                  | CEN                | EX  | HOMES (TH                          | E PARKS DEVEL             | OPMENT                     |                |
|-----|---|----------|----------|------------------|--------------------|-----|------------------------------------|---------------------------|----------------------------|----------------|
|     |   |          | ¥        |                  |                    |     | s Vegas, NV 3<br>F ESCROW <u>N</u> |                           |                            | Ý              |
| 0   | Concat Homeowner  | COL      | NOC      | Comir            | Lot                | Blo | a Parcel No.                       | adinas                    | til different than         | SOT            |
| 36. | Kimmel, Blanche Lvg<br>Tr<br>Kimmell, Blanche, Tra.                 | 12/19/01 | 12/19/01 | <b>SB/</b><br>11 | Unit 4<br>Lot 78   | 1   | 124-22-314-001                     | 717 Regal Robin Way       | autrent)                   | BERRICH STREET |
| 37. | Kingery, Larry  | 10/23/01 | 10/23/01 | GC/<br>7         | Unit 5<br>Lot 12   | 1   | 124-22-311-012                     | 6745 Montezuma Castle Ln. |                            |                |
| 38. | Kirk, Ronald  | 7/02/01  | 7/02/01  | GC/              | Unit 5<br>Lot 74   | 2   | 124-22-311-074                     | 323 Horse Pointe Ave.     |                            |                |
| 39, | Klein, Ken and Mary<br>Beth   | 8/31/04  | 3/30/01  | GC/<br>4         | Unit 5<br>Lot 85   | 2   | 124-22-311-085                     | 340 Gulf Harbor Court     | Jones, Erik D              | 5/30/01        |
| 40. | Lambert, Maria  | 7/25/01  |          | GC/<br>5         | Unit 5<br>Lot 31   | 1   | 124-22-311-031                     | 312 Horse Pointe Ave.     |                            |                |
| 41. | Liriano, Aristides &<br>Irella                                      | 9/10/08  | 2/25/01  | WM/<br>2         | Unit 3,<br>Lot 274 | 7   | 124-22-213-061                     | 645 Painted Opus Place    | Lewis, Avery &             | 2/05/01        |
| 42. | Lynn, Sherry  | 9/01/06  | 7/23/01  | WM/<br>5         | Unit 3<br>Lot 326  | 9*  | 124-22-313-044                     | 6637 Maple Mesa St.       | Herras, Albert             | 7/23/01        |
| 43. | Maniscik, Gilberi<br>41-42 42πd St., Apt. 6-<br>Sannyside, NY 11104 | 3/31/08  | 9/21/01  | WM/<br>6         | Unit 4<br>Lot 351  | 9   | 124-22-314-080                     | 6738 Petrified Forest St. | Johnson, Bridget &<br>John | 9/21/01        |
| 44. | Madrid, Gilbert & Jill  | 4/11/03  | 12/21/01 | SB/<br>10        | Unit 2<br>Lot 65   | 1   | 124-22-312-035                     | 603 Regal Robin Way       | Madrid, Gilbert            | 12/24/01       |
| 45. | Madu, Fidelis   | 3/26/09  | 10/19/01 |                  | Unit 4<br>Lot 94   | 1   | 124-22-314-015                     | 6713 Petrified Forest St. | Madu Fidelis               | 10/19/01       |

| NAT I | BR  | UNDE    | GEET                         | ALO        | The second second | CONTRACT OF |                             | E PARKS DEVEL             | OPMENT  |                 |
|-------|---|---------|------------------------------|------------|-------------------|-------------|-----------------------------|---------------------------|---|-----------------|
|       |   |         | ¥                            |            |                   |             | s vegils, NV :<br>EESCROW M |                           |   |                 |
| 0     | Current Homeownet   | COF     | NOC                          | Comu<br>// | al Lot            | Bloc        | E Parcel No.                | Adilesi                   | Original Homeowner<br>(ifaffferent ihen<br>current) | Laitisi<br>COL  |
| 46.   | Marcella, Diann   | 3/26/02 |                              | WM/        | Unit 3<br>Lot 249 | 6           | 124-22-313-086              | 6652 Majestic Pearl Pl.   |   | All Designation |
| 47.   | McClure, Terrance   | 4/25/08 | 1/19/01                      | WM/<br>2   | Unit 3<br>Lot 276 | 7           | 124-22-313-059              | 637 Painted Opus Pl.      | Williams, Aubrey R III<br>and Pamela                | 1/19/01         |
| 48.   | McGill, Mary & Jon  | 1/30/06 | 3/23/01                      | SB/<br>3   | Unit 1<br>Lot 174 | 4           | 124-22-310-066              | 356 Regal Robin Way       | McGill, Mary  | 3/23/01         |
| 49.   | Miles, Larry and<br>Noreen  | 3/03/08 | 3/20/01                      | SB/<br>4   | Unit 1<br>Lot 162 | 1           | 124-22-310-042              | 415 Regal Robin Way       | Falk, Bruce A                                       | 3/30/01         |
| 50.   | Millan, Noel & Staci<br>7414 Makaa Pl.<br>Honolulu, HI 96835          | 5/27/05 | 11/30/01<br>1 <b>2/6</b> /01 | WM/<br>8   | Unit 3<br>Lot 112 | 2           | 124-22-314-004              | 6615 Petrified Forest St. | Book, Espididado &<br>Herminia                      | 12/06/01        |
| 51.   | Miller, Randall &<br>Dawn<br>5015 So. Fork Lane<br>Waterloo, IA 50701 | 5/22/09 | 1/31/01                      | SB/<br>3   | Unit 1<br>Lot 169 | 3           | 124-22-310-035              | 341 Regal Robin Way       | Ramirez, Jesse R., II                               | 1/31/01         |
| 52.   | Muncil, Alan and Jane   | 7/18/01 |                              | GC/<br>5   | Unit 5<br>Lot 28  | 1           | 124-22-311-028              | 324 Horse Pointe Ave.     |   |                 |
| 53.   | O'Shea, John C.<br>Longfield, Sheryl A.                               | 3/11/04 | 11/05/01                     | SB/<br>9   | Unit 2<br>Lot 58  | 1           | 124-22-312-042              | 517 Regal Robin Way       | Dalrymple, Donald                                   | 11/05/01        |
| 54.   | Padgett, Robert and<br>Precyar  | 1/10/06 |                              | SB/<br>13  | Unit 1<br>Lot 189 | 5           | 124-22-310-051              | 6609 Mammoth Canyon PL    | Bailey, Anastasia                                   | 3/07/02         |

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|     | - water water and the water and the second s | 0.070 C 10 C | CALIFICATION AND A |          | Nort               | n Eas | HOMES (TH<br>Vegas: NV 8<br>ESCROW M | E PARKS DEVEL<br>9984<br>ATRIX | JEMENT)  |                 |
|-----|--|--|--------------------|----------|--------------------|-------|--------------------------------------|--------------------------------|--|-----------------|
|     | Current Homeowner  | COE  | NOC                |          | Lot-               | Block | C Parcei No                          | Address                        | Original Homeowner<br>(IC different than<br>current) | Initial-<br>COE |
|     | Pittman, Freddie Mae<br>P. O. Box 27488<br>Oakland, CA 94502   | 1/10/03                                    | 4/27/01            | WM/<br>4 | 1                  | 7     | 124-22-313-076                       | 6655 Majestic Pearl Pl         |  | 4/27/01         |
| -   | Raimonda, Charles  | 11/20/00                                   | 11/20/00           | WM/<br>1 | Unit 1<br>Lot 14   | 1     | 124-22-310-014                       | 6630 Cinnabar Coast Ln.,       |  |                 |
| 57. | Raines, Dennis &<br>Maria  | 8/29/01                                    | 8/29/01            | WM/<br>6 | Unit 4<br>Lot 107  | 2     | 124-22-314-028                       | 6770 Cinnabar Coast Ln.        |  |                 |
|     | Ramos, Margarita<br>1004 Tropic Wind<br>Ave.<br>No. Las Vegas, NV<br>89081   | 9/04/01                                    | 9/04/01            | GC/<br>4 | Unit 5<br>Lot 81   | 2     | 124-22-311-081                       | 324 Harbor Gulf Ct.            |  |                 |
| 59. | Rapoport, Maria and<br>Zayas, Alfonso  | 9/18/01                                    | 9/18/01            | WM/<br>6 | Unit 4<br>Lot 100  | 1     | 124-22-314-021                       | 6737 Petrified Forest St.      |  |                 |
| 60. | Richter, Mark  | 10/17/01                                   | 10/17/01           | GC/<br>7 | Unit 5<br>Lot 10   | 1     | 124-22-311-010                       | 6737 Montezuma Castle Ln.      |  |                 |
| 61. | Rierson, William<br>Tabon, Naomi   | 12/20/04                                   | 1/29/01            | GC/      | Unit 5<br>Lot 64   | 1     | 124-22-311-064                       | 6675 Montezuna Castle Ln.      | Bjerke, Shizue & Garry<br>Lee                        | 1/29/01         |
| 62. | Rolls, Jennifer &<br>Thomas<br>6449 Deer Peak Ct.<br>Las Vegas, NV 39084   | 7/05/01                                    | 7/05/01            | WM/<br>5 | Unit 3<br>Lot 242  | 5     | 124-22-313-093                       | 512 Lava Beds Way              |  |                 |
| 63. | Ruelas, Teodoso &<br>Francisca   | 4/02/01                                    | 3/28/01            | WM/<br>3 | Unit 3,<br>Lot 269 | 7     | 124-22-213-065                       | 626 Lava Beds Way              |  | 1               |

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|                |   |          | CHARGES ABILITZE |          | 14-Method Marine  | Sea statist | THE CONTRACTOR OF A                  |                               | -  |                |
|----------------|---|----------|------------------|----------|-------------------|-------------|--------------------------------------|-------------------------------|--|----------------|
| Concert Marine | B   | UNDE     | GEET             | ALV      | Nort              | i Las       | HOMES (TH<br>Vegas, NV H<br>ESCROW M |                               | OPMENT :   | ♦              |
|                | Current Homeowart   | COE      |                  | Comin    | Lot               | Block       | Parcel No. C                         | Addras                        | Origina) Boncownez<br>(El differencióan<br>corrent | Initial<br>COB |
| 1              | Schmitt, Paul and<br>Barbara<br>7015 St. Lucia St.<br>Las Vegas, NV 89131 | 3/19/08  |                  | SB/<br>8 | Unit 2<br>Lot 54  | 1           | 124-22-312-045                       | 6563 Mammoth Canyon Pl.       | Gonzales, Marlena                                  | 9/12/01        |
| 65.            | Sharpe, Gary &<br>Dorothy   | 1/16/02  | 1/16/02          | WM/<br>8 | Unit 4<br>Lot 85  | 1           | 124-22-314-008                       | 6631 Petrified Forest         |  |                |
| 66.            | Simmons, Kristina   | 5/21/04  | 9/21/01          | WM/<br>4 | Unit 3<br>Lot 260 | 7           | 124-22-313-075                       | 6651 Majestic Pearl Pl.       | McDonald, Kristina                                 | 9/21/01        |
| 67.            | Smith, Maire  | 5/01/08  | 12/20/01         | WM/<br>9 | Unit 4<br>Lot 310 | 9           | 124-22-314-054                       | 6747 Maple Mesa Street        | Monsayac, Ferdinand<br>& Yolanda                   | 12/20/01       |
| 68.            | Smutz, Michael  | 9/10/01  | 9/10/01          | GC/<br>6 | Unit 5,<br>Lot 17 | 1           | 124-22-311-017                       | 6714 Montezuma Castle<br>Lane |  | 1              |
| 69.            | Tumer, Ronald &<br>Kathi  | 3/07/01  | 3/07/01          | GC/<br>2 | Unit 5,<br>Lot 93 | 2           | 124-22-311-093                       | 6634 Montezuma Castle<br>Lane |  | 1              |
| 70.            | Valle, Jovito and<br>Erinda   | 12/12/01 | 12/12/01         | WM/<br>8 | Unit 2<br>Lot 331 | 9           | 124-22-312-022                       | 6617 Maple Mesa St.           |  |                |
| 71.            | Venter, Laura   | 12/04/09 | 9/18/01          | WM/<br>6 | Unit 4<br>Lot 353 | 1           | 124-22-314-082                       | 6746 Petrified Forest St.     | Lambert, Salvatore W.<br>& Suzanne R               | 9/18/01        |
| 72.            | Wadlow, Steven and<br>Susan   | 3/26/08  | 12/29/00         | WM/<br>1 | Unit 1<br>Lot 13  | 1           | 124-22-310-013                       | 6634 Cinnabar Coast Ln.       | Heitzman, Willard M                                | 12/29/00       |

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|      | 2 N 2 R                                     | INDEC       | <b>東田</b> | ALL Y    |                              |   | A DESCRIPTION OF A DESC | E PARKS DEVEL             | OPMENT                                   |          |
|------|---|-------------|-----------|----------|------------------------------|---|--|---------------------------|--|----------|
| 1.0  |   |             |           |          | Company of the second second | In the second | s Vegas, NV B  |                           |  |          |
| 10 U |   |             |           |          | CLOS                         | EQ  | ESCROWM  | ATRIX                     | I CAL DE MARINE                          |          |
| No.  | Current Homeowner                           | For         | A DE      | 「検測の場    |                              |   | E Parcel No.   | Address                   |  |          |
|      | Contraction from Communication              | - COE       |           |          | Lot                          |   |  | Andress                   | Original Romeowner<br>(If different than | Initial  |
|      |   | i i i i i i |           | ELase    |                              |   | 相關 网络印刷方   |                           | (grant)                                  | COR      |
| 73.  | Warner, Ronald Lee                          | 11/27/01    | 11/27/01  | SB/<br>9 | Unit 2<br>Lot 194            | 5   | 124-22-312-003   | 510 Regal Robin Way       |  | 1        |
|      |   |             |           |          | 1210/04                      | -   | 1  |                           |  |          |
| 74.  | West, David<br>Esterline, Ethan             | 2/20/07     | 5/24/01   | GC/<br>4 | Unit 5<br>Lot 84             | 2   | 124-22-311-084   | 335 Harbor Gulf Ct.       | Esterline, Ethan                         | 5/24/01  |
| 75.  | Wright, Wesley C.<br>(Jones-Wright, Wesley) | 9/15/06     | 11/15/01  | SB/<br>9 | Unit 2<br>Lot 197            | 5   | 124-22-312-006   | 522 Regal Robin Way       | White, John & Brenda                     | 11/15/01 |
| 76.  | Wylie, Desiree                              | 3/09/07     |           | SB/<br>4 | Unit 1<br>Lot 159            | 3   | 124-22-310-045   | 427 Regal Robin Way       | Smith, George L. Jr.                     | 3/02/01  |
| 77.  | Lacroix, Ann Marie                          | 6/12/01     |           | -        | 1                            |   |  | 6738 Gentle Harbor St.    |  | -        |
|      | Mateo, Gerald and Lelani                    | 11/09/04    |           |          |                              | 1   | inter a second se  | 6672 Majestic Pearl Pl.   | Barakat, Christopher                     | 4/12/02  |
| 79.  | Booker, Craig                               | 11/29/01    |           | 1        | -                            |   |  | 626 Regal Robin Way       |  | 1        |
| 80.  | Lione, Raposa                               | 3/23/01     |           | WM/<br>3 | Unit 3<br>Lot 267            | 7   | 124-22-313-068   | 618 Lava Beds Way         |  |          |
| 81.  | Campbell, Chris                             | 9/02/09     |           | 1        | 1                            |   |  | 6620 Petrified Forest St. | Earles, Jon David                        | 12/06/01 |
| 82.  | Brown, Debra                                | 5/25/01     |           |          |                              | 1   |  | 328 River Glider Ave.     | 1  | 1        |
| 83.  | Goodie, Sharon                              | 12/07/01    | 1000      |          |                              |   |  | 630 Regal Robin           |  |          |
| 84.  | Byrd, Mae Ruth                              | 3/19/01     | 1         | 1.0      |                              | 1   |  | 6638 Cinnabar Coast Ln.   |  |          |
| 85.  | George, Frederick and<br>Cathy              | 6/30/10     |           |          |                              |   |  | 6539 Mammoth Canyon PL    | Scioli, Jeffory                          | 8/31/01  |
| 86.  | Drago, Jason                                | 1/16/08     |           |          | No.                          |   | 1.2  | 6633 Maple Mesa St.       | Brennan, Dennis &<br>Sherri              | 7/17/01  |
| 87.  | Carpenter, Barry                            | 3/29/01     |           | -        |                              | 1   |  | 6702 Gentle Harbor St.    |  | -        |

(Page 2 of 7)

|     |   |          |                | North       | iLasi | AMESCHI<br>Regas NV 8<br>SCROW M | Manufacture second in the second se | JEMENI )   |                     |
|-----|---|----------|----------------|-------------|-------|----------------------------------|---|--|---------------------|
|     | Current Homeowner   | COF: NOC | Comm.<br>Phase | Enni<br>Lot | Block | Parcel No.                       |   | Original Romeowork<br>(at different than -<br>turnent) | COE                 |
| 88, | Demarchis, Thomas   | 1/31/01  |                |             |       |                                  | 6647 Montezuma Castle La.   | Contracting Contraction of Contract                    | C. KING OF MALERIAN |
| 89. | Glasper, Tyree  | 12/03/01 |                | -           |       |                                  | 6623 Petrified Forest St.   |  | 1                   |
| 90. | Gildea, Patricia  | 2/27/01  |                |             |       |                                  | 6619 Montezuma Castle Ln.   | Gildea, Joseph   | 2/27/01             |
| 91. | Blackwell, Eulae<br>(Carter-Blackwell, Eulae)                         | 1/04/10  |                | ,10         |       |                                  | 615 Regal Robin Way   | Eaton, Edward  | 12/14/01            |
|     | Tyson, Richard and<br>Lucille   | 1/23/02  |                |             |       |                                  | 622 Regal Robin Way   |  | 11                  |
| 93. | Boyle, Jeffrey  | 12/07/06 |                |             |       |                                  | 6629 Cinnabar Coast Ln.   | Boyle, David &<br>Darlene                              | 3/16/01             |
| 94. | Montgomery, Joseph and<br>Elena                                       | 4/27/10  |                |             |       |                                  | 347 River Glider Ave.   | Ward, Jodi   | 6/22/01             |
| 95. | Washington, Jerry and<br>Sheena                                       | 1/31/07  |                |             |       |                                  | 713 Regal Robin Way   | Simmons, Denise  | 3/21/02             |
|     | Williamson, Cheryl<br>PO Box 9775<br>Marina Del Rey, CA<br>90295-2175 | 5/13/10  |                |             |       |                                  | 403 River Glider Ave.   | Allenson, Clayton                                      | 1/24/02             |
| 97. | Balusek, Garrison and<br>Cheryl                                       | 7/17/08  |                |             |       |                                  | 434 River Glider Ave.   | Batler, Judith   | 8/24/01             |
| 98. | Becket, Yvone   | 11/23/04 |                |             |       |                                  | 6659 Majestic Pearl   | Yamasaki, Donald                                       | 5/10/01             |
| 99. | Collins, Dianne   | 6/01/07  |                |             |       |                                  | 602 Regal Robin Way   | Cleland, Tyson   | 11/27/01            |
| 100 | DeRosa, Greg  | 12/03/05 |                |             |       |                                  | 6610 Cinnabar Coast   | Moxley, Bobby &<br>Linda                               | 3/29/01             |

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|  |          |                      |       | Korti<br>CLOS | EX 18<br>I Las<br>S OF | OMESTIE<br>Vegas NV<br>ESCROW M | E PARKS DEVEL<br>9084<br>ATRIX | JPMENT)  |  |
|--|----------|----------------------|-------|---------------|------------------------|---------------------------------|--------------------------------|--|--|
| No. Current Humeowner  |          | a contra             | Comm. | Lot           | Block                  | Parcel No.                      | Addrus                         | Of panel Hon covine<br>(if different then<br>chirtert) | COP  |
| 101 Kawana, Mirtha   | 3/29/01  | -la far solle factor |       |               | Caroline A grade       | and the second second second    | 606 Lava Beds Way              |  | Contraction of the local distribution of the |
| 102 Norina, Elena<br>1310 Saddle Rack St.,<br>#448<br>San Jose, CA 95126 | 5/26/04  |                      |       |               |                        |                                 | 633 Lava Beds Way              | Almazan, Rosa  | 2/21/02  |
| 103 Sanabria, Artemio and<br>Ines  | 12/26/00 |                      |       |               |                        |                                 | 6752 Cinnabar Coast Ln.        |  |  |
| 104 Schrick, Matthew and<br>Michelle                                     | 10/26/05 | 111                  |       |               |                        |                                 | 641 Painted Opus Pl.           | Navarro, Max   | 2/05/01  |
| 105 Tolleson, Matt & Lori  | 6/18/10  |                      |       |               |                        |                                 | 443 River Glider Ave.          | Harris, Thomas &<br>Linda                              | 10/09/01   |
| 106 Ullrich, Barbara<br>3930 Burma Rd.<br>No. Las Vegas, NV<br>89032     | 5/15/09  |                      |       |               |                        |                                 | 521 Lava Beds Way              | Zegers, Travis &<br>Stephanie                          | 1/28/02  |
| 107 Valdez, Jaime and Marie  | 9/13/01  |                      | 1     |               |                        |                                 | 6718 Montezuma Castle Lp.      |  |  |
| 108 Wasserman, Max   | 11/30/01 |                      |       |               |                        |                                 | 6640 Petrified Forest SL       |  |  |
| 109 Davis, Sanders and<br>Gloría (Davis Family<br>Trust                  | 11/27/02 |                      |       |               |                        |                                 | 327 Harbor Gulf Ct.            | 1  |  |
| 110 Caliendo, Steven   | 7/27/01  |                      |       |               | 5                      |                                 | 427 River Glider Ave.          |  | 1  |
| 111 Gretka, Jerome and<br>Patricia                                       | 1/31/02  | 111                  | 13.1  | 1             |                        | 1.1.1                           | 622 Painted Opus PL            | -  |  |

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|  |          |            |              | ALC: NOT THE REAL PROPERTY OF | Contraction of the second second | Vegas, NV 8<br>ESCROW M |                            |   |          |
|--|----------|------------|--------------|-------------------------------|----------------------------------|-------------------------|----------------------------|---|----------|
| o 👘 Current Homeowner .  | COR      | NOC        | Comm<br>Comm | E COL                         | Block                            | ParcelNo                | Address 1                  | Original Homeowner<br>AEdifferent chan<br>current |          |
| 112 Andrade, Kent  | 2/06/04  | Color Pool |              | -D-Stelligente                | Construction of the second       | NINDER CREATE           | 447 River Glider Ave.      | Shaffer, Jason & Karen                            | 9/04/01  |
| 113 Dixon, Nelson and<br>Cheryl  | 12/20/01 |            |              |                               |                                  |                         | 619 Regal Robin Way        |   |          |
| 114 Adams, Bryan and Shcryl  | 9/27/01  |            |              |                               |                                  | 1                       | 406 Horse Ponte Ave.       | 1   |          |
| 115 Beltran, Gilbert<br>11703 Pounds Ave.<br>Whittier, CA 90604            | 12/11/09 |            |              |                               |                                  |                         | 526 Regal Robin            | Antonius, Eric                                    | 12/28/01 |
| 116 Herrera, Antonio and<br>Rosa   | 5/21/10  |            |              | 1                             |                                  |                         | 6620 Montezuina Castle Ln. | Rider, Jonathon                                   | 3/26/01  |
| 117 Arruti, Ginger   | 1/19/01  |            |              |                               |                                  | 1                       | 617 Painted Opus Pl.       |   |          |
| 118 Munsell, Shannon<br>2613 Campobello Ave.<br>No. Las Vegas, NV<br>89081 | 6/22/10  |            |              |                               |                                  |                         | 422 River Glider Ave.      | Fue, Nicholas &<br>Rosemary                       | 7/26/01  |
| 119 Bichler, James (Bichler<br>Family Trust)                               | 11/17/06 |            | WM/<br>3     | Unit 3<br>Lot 270             | 7                                | 124-22-313-065          | 630 Lava Beds Way          | Kan, Tedi   | 4/05/01  |
| 120 Amico, Jeffrey   | 6/06/01  |            | 1            | 1.1.1.1                       | 1                                | 1-20                    | 6606 Cinnabar Coast Ln.    |   |          |
| 121 Umlauf, Jason  | 9/21/09  |            | 1.00         | 1                             | 1                                | 1                       | 6726 Petrified Forest St.  | Heckard, David                                    | 9/26/01  |

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Auto

| n en er  |   |               | egas NV 89084<br>SCROW MATRIX   |                      |   |                 |
|--|---|---------------|---|----------------------|---|-----------------|
| Current Homeowner  |   | Cot of the    |   | Addression           | Orizinal Homeonicer<br>(if different than<br>current) | COF             |
| 122 Cintron, Amy and Hector<br>(Cintron Family Trast)<br>10009 Madison Walk<br>Ave.<br>Las Vegas, NV 89149 | the second se |               | Contraction of the second s | aple Mesa St.        |   | CHILD AND A TOO |
| 123 Iwasczyszyn, Bernard   | 5/15/01   |               | 6717.Ge   | entle Harbor St.     | 1   | 1               |
| 124 Grande, Pedro<br>(Abrego, Pedro M.<br>Grande)  | 8/24/09   |               | 320 Hor   | se Pointe Ave.       | Ocallaghan, Kevin                                     | 7/17/01         |
| 125 Laub, Ken  | 3/13/09   |               | 6649 M  | aple Mesa St.        | Chang, Jonas  | 7/20/01         |
| 126 Laub, Ken<br>5501 Dorrell Ln.<br>Las Vegas, NV 89131   | 5/18/10   |               | 533 Lav   | ra Beds Way          | Bernstein, Lois                                       | 1/15/02         |
| 127 Lanb, Ken<br>5501 Dorrell Ln.<br>Las Vegas, NV 89131   | 3/19/09   |               | 6546 Ci   | nnabar Coast Ln.     | Dille, Neil and Melissa                               | 3/30/01         |
| 128 Johnson, Rence   | 9/10/01   |               | 410 Hot   | rse Pointe Ave.      |   |                 |
| 129 Miller, Timothy and<br>Kerry   | 11/30/07  |               |   | nnabar Coast Ln.     | Menke, Lezlie   | 3/19/02         |
| 130 Bird, Brad   | 11/29/05  |               | 6722 M  | ontezuma Castle Lin. | Dahl, Robert and April                                | 9/28/01         |
| 131 Lozano, Salvador   | 8/17/09   | 1 - W - S - 1 | 529 Rep   | al Robin Way         | Kaname, Henry   | 11/01/0         |

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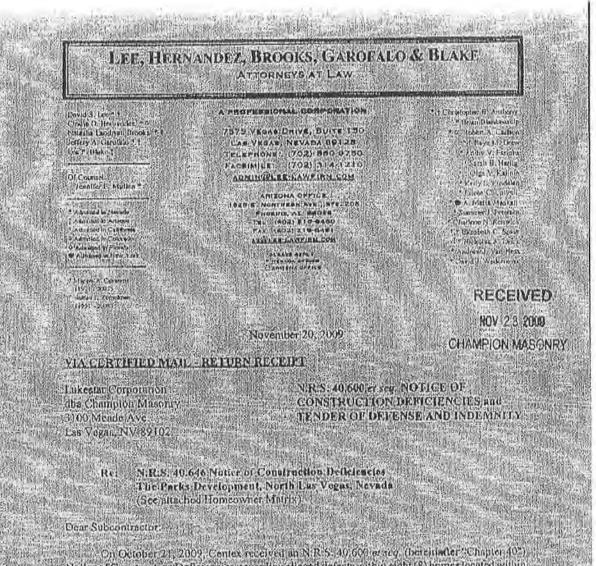
| BR  | JNDEC    | EET | ALV.        | North        | i kas | OMES (TI<br>Vegas NV<br>ESCROW A |                           | OPMENT   |          |
|---|----------|-----|-------------|--------------|-------|----------------------------------|---------------------------|--|----------|
| vo. Current Homiswill   | COL      | 14  | <b>N</b> EZ | -Unit<br>Lot |       |                                  | Afdres                    | Objectal Homes you<br>(Molificant that<br>current) | COE      |
| 132 McCauley, Christine                                       | 5/14/04  |     | 1.1         |              |       |                                  | 6735 Maple Mesa St.       | Smith, Patrick                                     | 1/18/02  |
| 133 Hardeman, James   | 10/12/01 |     |             |              |       |                                  | 438 River Glider Ave.     |  |          |
| 134 Pinkney, Aundria  | 12/11/01 |     | 1           |              |       |                                  | 6621 Maple Mesa St.       |  |          |
| 135 Jones, Saadia   | 4/15/09  |     |             |              |       |                                  | 6740 Maple Mesa St.       | Webster, Frank and<br>Zina                         | 12/21/01 |
| 136 Miller, Glem  | 8/02/01  |     |             |              |       |                                  | 332 Horse Pointe Ave,     |  |          |
| 137 Cohen, Jay  | 1/02/01  |     |             |              |       |                                  | 362 Loma Marsh Ct.        | 1000   | 1        |
| 138 Cooper, Shawna  | 2/17/05  |     | 1           |              | Ľ.    |                                  | 319 Harbor Gulf Ct.       | Reams, Tammie                                      | 5/25/01  |
| 139 Rugger, James Leo and<br>Winegart, Pamela                 | 10/28/08 |     |             |              |       |                                  | 6721 Maple Mesa St.       | Reynolds, Jeffrey                                  | 1/10/02  |
| 140 Connelly, Andrea and<br>Vicious, Michael                  | 4/23/01  |     |             |              |       |                                  | 6639 Majestic Pearl Pl.   | 1.2. 1. 4.1  |          |
| 141 Anderson, Thomas  | 6/02/09  |     | 1.1         | 1            |       |                                  | 6730 Petrified Forest St. | Benedito, Richard                                  | 9/25/01  |
| 142 Brademan, Jarrod<br>(Brademan, Krista and<br>Jarrod)      | 6/01/07  |     |             |              |       |                                  | 332 Harbor Gulf CL        | Hugins, Kevin                                      | 5/29/01  |
| 143 Gunner, Paul and Tok<br>6942 Morton Dr.<br>Troy, MI 40085 | 1/25/01  |     |             |              |       |                                  | 625 Painted Opus Pl.      |  |          |
| 144 Velasquez   | 12/31/01 |     |             |              |       |                                  | 611 Regal Robin Way       |  |          |

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# EXHIBIT 100 (Part 1)

November 20, 2009 letter from counsel for Centex forwarding to Champion Masonry a Chapter 40 Notice regarding *Garcia*, with attached homeowners' matrix and Chapter 40 Notices dated October 2, 2009 (ISIC 1475-1489) (Paul 1 of 14).



Notice of Construction Deficiencies, regarding alleged detects with oreight (6) homes located within The Park's Development in North Las Vegas, Nevadit, Further, Contex received three (3) Chapter 40 Notices for other residences in the Park's development. We have attached copies of the eleven (11) Chapter 40 Notices. The enclosed Chapter 40 Notices claim several construction deficiencies sexist within the eleven (11) horizes that potentially implicately our scope of work.

This latter will serve to provide you with notice of the above-referenced Chapter 40. Notices of Defects pursioned to P.R.S. 40.046. This futter is also fateaded to demand that you framediately agree to provide a defense to Conter involving this claim and agree to informulfy Center for damager is suffert:

Pursmant to Chapter 40, within thirty (30) days of receiving a Chapter 40 Notice your company wust impress the allegoit constructional defects and provide. Center with a written statement indicating:

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T FE HERNANDEL BROUKS GARGEALO & BUARE TOXALO & BUARE Subcontractor

November 20, 2009 Fuge 2

(a) Whether your company will elect to repair the defects for which C entex believes you may be responsible; and

(b) If your company elects to repair any defects, an estimate of the length of three required for the repair, and at least two proposed dates and times at which you will be able to begin making the repairs.

NER S. 40.600 *et sen*: Also contains other provision that may affect your rights underesponsibilities. Therefore, you should notify your insurance camer and or afformeys of receipt etc this notice. Centry, as the general controlor, for the homes, requests that you contact the undersigned first to discuss providing a unified response to this claim. Our records indicate that your company entered into a contractful relationship with Centex, and performed construction related work at the homes.

Moreover, the subcontract agreement signed by you required you to purchase insurance, protecting, Centex, for any claims, plated to your work. (More specifically, paragraph 8 of the subcontract agreement required you to purchase and mathem. Complement General Liability, insurance uniming Centex as an additional matret.

Inaccordance with the express language of the contract and Sonahez v. Alonso; 50 Nev. 563, 665 P. 20934 (1980), you have an express dury to Centex to provide an immediate defense. You also have an express indemnity obligation. The indemnity provision of your subcontract agreement is as follows:

Contractor shall indemnify defends and hold humless Builder (and the owner of the Sine Hother than Builder), all subcontractors division and affiliated companies of Owner, its partiers, Centex Real Estate Corporation. A Nevada corporation and all of such parties, representatives, partners, members, designess, officers, directors shareholders, employees, agents successors and assigns, and any fender of Owner with an interest in the Project from and against any and all chains (including without instation, obtains, for bothly injury, death or dismage to property), demands, obligations, damares, a tions, causes of action, subsidoses, judgments, freesperates, find and expenses (including, without limitation, atomes, actions, causes of action, subsidoses, judgments, freesperaties, liabilities, costs and expenses (including, without limitation, atomes) actions, causes of action, subsidoses, judgments, freesperaties, and other costs of derense incurred by Builder in defending against any first defending against any without limitation, atomes, the second derense obligation) of every kind and insure whatsoever (collectively, "Claims) arising out of ortip connection with the provisions of the Agreement of the Contract Documents by Connector of uny of its agent, representitives, and oc passive negligent actions and entering giant or any of its agent, representitives, and oc passive negligent action interving giant or any of its agent, representitives, and oc passive negligent action mission of Builder or any indeminated party. Contractor and hother observer of builder or any indeminated party (contractor) and is finally determined by active of any other or any undeminated party to the extent action and a passive negligent action interprint.

**ISIC 1476** 

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LEE, HERNANDEZ, BROOKS GAROWALO & BUAKE TO BAS YS AT ONE

Subcontractor November 20, 2009

Enclosives as stated.

Page 3

jurisdiction to have been caused by gross negligence or will full misconduct of Builder or such indemnified party. The indemnify set forth in this Section shall not be limited by insurance regimements of by any other provision of the Contrast Documents. Notwithstanding the foregoing, nothing, herein shall be construed to require Commutation to indemnify Builder or an indemnified party from any Claim arising from the sole nogligence of will full maconduct of Builder or such indemnified party."

Further, notwitherancing any written contractual obligations that user, we have obligations that user, we have obligations that user, we have obligations and indemnity of Centex to your company under the indemnity procepts and forth as silver v. Televent Leasing Corp., 105 Nev. 30, 768 P.2d 879 (1989), and Piedmont Equip. Co. V. Eberhard Mig., 99 Nev. 523, 665 P.2d 256 (1983).

Please by on notice that Centex will seek to recover from you any amounts paid to be Claimant(a) in settlement, for repairs analysi judgment and any costs mentred defending and investigating this actions including, but not finited to attorneys tess and expert costs pursuant to the express language of the contract and Silver is Televent Leasing Corp., and Riodmont Equip Co. 1 Therbard Affg. supra

Therefore, please accept this correspondence as <u>Centex Homes' formal lander of its</u> defense and <u>indemulty</u> to your company and its inducance carriers, under all of your applicable policies. We hereby request a written response to our Chapter 40. Notice and lender as soon as possible and pollater then thirty (30) days from the date of this lenter. Should you require anything further to expedite your response, please feel free to contact the undersigned.

Sincarely,

Mour unticipated cooperation is greatly oppreciated

LEE, HERNANDEZ, BROOKS

David J. Wedemeyer, Bog dwedemeyermeter lawilim.com

(Page 7 of (J)

| Ronaldrik Kashi Turner      | Michael Snotz                                | Tendros & Francisca Rucias<br>S26 Lava Beds Wav   | Analdes Lanaro<br>Techt Linero | Calima Kele              | Seida Jams                        | Wilhourus & Maria Goller                  | Jose Garen                     | David & Laurie Dove                                 | Rendr Cabus)                               | Chris & Sisteric Brunksige                  | HOMEOWNER  |
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#### Case 2:15-cv-00460-JAD-PAL Document 43-59 Filed 09/19/16 Page 6 of 10

(Pace 1 of 18)

SHINNICK, RYAN & RANSAVAGE P.C. 1.14 2861 BUSINESS PAAK, COURT, SUITE 210, LAS VEGAS, NEVADA, 89128 Win STE www.salpiew.com TELEPHONIL (703) 631-8014 TOLL PREE (800) 253-9741 Ockiber 2, 2009 MACERATIND MAD - REHEREREEDT GENTEX HOMES \$550 Pamird Etirage Rood Sutto 200 Los Vegas, NV 89149 Ro: The Packs Que the 3108.001 To When it May Concern: 5 This first expressess on its and Vision Brudslegs, the houseoware of 6545 Manuauth Garyoe PLE North Law Vision, NV 89084. Pressult in Trevata has multiling Chapter 41 and seriors at 541 of beyond Scienced that has see any prestong his names of datase or bourstrated and before and boaches of expression sciences and the parks backshallow. The detects but damage is the result boaches of andler (Hipped motion of the parks backshallow) and/or doors, hywalt careles problems with plastic that into a shower contactive, which we product problems contrary is not be problems with plastic that into a shower contactive, which y product problems contrary is not, possering detectoration, pos-cobustry Halt handles operation, set of square vindows subtress doors interior wood that derever allow coherers that handles operation, out of square vindows subtress doors interior wood that derever indoor separation, baseboard sparston, drivall's due to some well never information and dealers concerning these here, and or problems, concerning of youll's due to be provided and the deriver problems of the deriver and the problems with plastic that indoor separation, baseboard sparston, drivall's due to be and you will the and the and you will the source with the and or source and the deriver allow and a subset of these symptoms. Additional information and dealers concerning these there with a photographic sent to found on the and even dues: Under the shower Neoada into, this notice has certain consequences, such as inspections, approxipa-response, and pre-filing mediation. We auggest that bediator /while it. Eckneth is agreed upon for the bandling of this we filing mediation. Please contact the understanded as soon as possible in order to discuss, there matters. Please shows any addiated the understandence concerning this materials movies to utilization at the above address. Very traty yours, .. SHINNICK RYAN & RANSAVAGE P.C. 1000 Juane Shin Duane E. Shanick -Attorney at Law. DEStiement Encladisc

#### Case 2:15-cv-00460-JAD-PAL Document 43-59 Filed 09/19/16 Page 7 of 10

(Fage 9 of 18)

## SHINNICK, RYAN & RANSAVAGE P.C.

2881 BUSINESS PARK COURT, SUITE 210, LAS VECAS, NEVADA 89128 1: USISULE: (700) 631-8024 гт врусмат. (702) 631-8014 Тој / Риде, (800) 253-9741 WER STR. WWW.A

October 2, 2009

#### MA CERTIFIED MAIL - RETURN BECRUT.

CENTEX HOMES 1550 Palnees Mirage Road-Sulto 200

Las Vegas NV 89149

RE Thorack Oun Blentosinot

#### To When It May Concorn:

This firm represents Report failual, the homeowner of 152 Reput Robin Way North Las Vegas, NV39024. Pulsuantio Nevada law ben ding Chapter 40 and sectoral de 645 of two rates Rovied Statutes, we are providing the notice of darms the construction and defects and benches of segretarity in the home at The Enrice Development. The defects and daring in the repaired, mediated, and/or inighted oncords discrete resulting the notice of darms the construction and defects and to relate the daries of segretarity in the home at the Enrice Development. The defects and daring in the repaired, mediated, and/or inighted oncords discrete results, wood time receive and daring in the repaired, but of square withdow and/or david, but daries have fautures (depend on the state of the second concerning these trents, and, as photographs, can be found an the successed disc.

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SHINNICK, RYAN & RANBAVAGE P.C.

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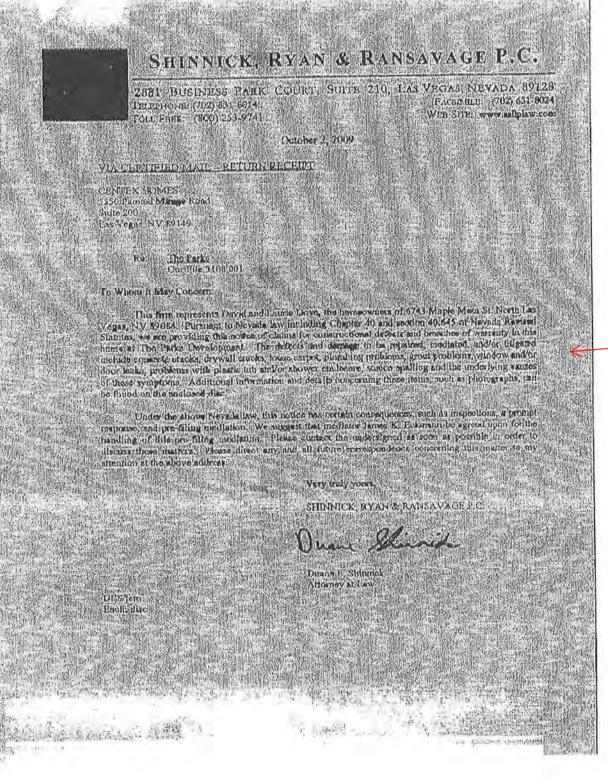
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#### Case 2:15-cv-00460-JAD-PAL Document 43-59 Filed 09/19/16 Page 8 of 10

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### Case 2:15-cv-00460-JAD-PAL Document 43-59 Filed 09/19/16 Page 9 of 10

(Page 11 of 18)

## SHINNICK, RYAN & RANSAVAGE P.C.

TELEVICONE (702) 651-8018 IOLL FREE: (SGO):253-9741

2881 BURNIERS PARK, COURT, SHITE 210, LAS VEGAS, NEVADA 89128 FACERNILLE (702) 631-8024 Wen SITE www.sellpaw.com

October 2, 2009.

VIAVERTINED MAIL - REFERENCE CERT

CENTEN IKOMES 5550 Paintpil Minage Road Sulne 2001 Las Vogas, NV 82149

> Thir Parks Our Pau 2108 003 Ré

To Whom It May Concern:

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Duanu P. Shumeki Attornoy at Law 12

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## Case 2:15-cv-00460-JAD-PAL Document 43-59 Filed 09/19/16 Page 10 of 10

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|         |  | Mary Bully Stake,<br>SEGNALICIC, RYAN & B                                    |  |
|         |  | Dum Eli  | the second second second second second   |
|         |  | Diane R. Shbrack<br>Attorney at Law  |  |
| 三四十分 新聞 | LDES jam.<br>Epcl: dias  |  |  |

**ISIC 1483** 

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Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 1 of 7

# EXHIBIT 100 (Part 2)

November 20, 2009 letter from counsel for Centex forwarding to Champion Masonry a Chapter 40 Notice regarding *Garcia*, with attached homeowners' matrix and Chapter 40 Notices dated October 2, 2009 (ISIC 1475-1489)

#### Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 2 of 7

(Page 13 of 10)

## SHINNICK, RYAN & RANSAVAGE P.C. 2881 BUSINESS PARK COURT FSDITE 210, LAS'VEGAS, NEVADA, 89128 FACENER (702) 631-0024 WEB STRE A WO sellplaw seen DELETITIONE: (702) 631 8014 TOLL HREE: (\$00) 253-9741 October 29, 2009 VIA CERTIFIED MAIL .: RECURN RECEPT CENTEX HOMES \$550 Palmed/Micage No.4 Suite 200 Las Vegne, NV 10149 中国、中国国际公司 The Parks Re To Whom B 844Y Cooceme

This first expression harder furths the intercourses of 421 Regist Posisin Way (Forth Line Vegna, NV 89684, Physical Network line including Chapter (I) and section 40.645 of Network Deviced Stating, we are providing this (which of planta for constructional) defects and benefate of variantly in this benefat (The Tarkie Devicing this, which of planta for constructional) defects and benefate to give a method observed constant, allows a sectors, drywell construction to be expressed construct, and an intercours and observed constant, allows and on the sector and the sectors of the sector weeks to the there is the construction constant, which and the sector beam of the sectors of the sector to the provident of and/or expansion, which and/or device leaks, inside the beam of the problem (sector) to the problem of the and/or expansion, which a pulling deal the beam of the plant of these of the sector of the and/or enclosure, should apalling deal the beam of the sector of the sector of the enclosed distribu-information and details processing these to the sector of the sector of the sector of the enclosed distribu-information and details processing these to the sector of the sector of the sector of the enclosed distribu-

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GHINNICK, RYAN & RANSAVAOR P.C

Owne Shinid

Dungie E. Shingleic Attorney at Luce

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#### Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 3 of 7

(Page 14 of 10)

U.S. QUELT- HALS SHINNICK, RYAN & RANSAVAGE P.C. 2881 BUGINESS PARK COURT, SUITE 210, LAS VEGAS, NEVADA 89128 TELSPHONE (702) 631 8014 TOLL PRES (800) 253-9741 FACTIMENE (702) 631-8024 WEB STEE www.seliplaw.com October 2, 2009 YIA CERTIFIED MAD. - REFURN RECEIPT. CENTEX HOMES 3050 Painter/ Michae Road Note 200 Lac Veges, NV. \$9149 Dis Parks Oise File 3 (08:00) Roti To Whola It May Concern This firm represents California Kelley, the honsenvire of 502 Regal Rohin Way North Las-Vegar NV \$2084. Pursuant to Nirrode law including Creptor of our attention 40.645 or Norvals Reriad Statution, we are providing this orders of chinas for constructional attents and sease for our ends to define the inclusion of chinas and attention and sease for our ends to the order of chinas and attention and sease for our ends of the order of chinas and attention and sease for our ends to the foreign of the inclusion and the order of the inclusion of the order of the order of the order of the order of the inclusion of the order of t Uniter the above Newsite tay, this solice has entitle consequences, such as inspections, a prompt response, not pre-filling conductors. We support that machine interest fill themes for agreed around the the handling of the pre-filling conductors. Please contact the underlighted as soon as possible in order to discuss these southers. Please direct any and all future correspondence concerning this matter to say attentions of the pre-silient. Very truly yours. BEOWNICK RYAN & RAPHAVAGE PC Unane Minnich Dunnel E. Shiamick Allowey at Low DESGem Engl. ding

#### Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 4 of 7

(Paum 15 of 10)

## SHINNICK, RYAN & RANSAVAGE P.C.

2881 BUSINESS PARK COURT, SUITE 210, LAS VEGAS, NEVADA B9128 Excellence (702) 631 8014 FOR FREE: (800) 253-9741 Web STE: 19979, silkelas com

November 10, 2009

#### VIA CERTIFICO MAIL - BETTARN RECEIPT

AP DE LE

CENTRX HOMES 5150 Primbel Minge Road Suite 200 Las Vegas MV 89189

> Ro: Ling Parks Our File,3105.001

To Whom It May Concern:

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#### Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 5 of 7

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ALC: NO in the second second SHINNICK, RYAN & RANSAVAGE P.C. 2881 BUSINESS PARK COURT, SUITE 210, LAS. VEGAS, MHVADA 89128 Тилионалия: ("02) 631-8014 Тонд Генн- (800) 253-974] Pumilin (702) 651 8024 WEB SITE www.sillplaw.com Deloter 7 2009 Salah (H VIA CERTIFIED MAIL - RUIDEN RECEIPT CONTEXCHOMES 5530 Filinited Mirrige Road Spirts 200 CBNTEX HOMES Las Yegas, NY 89149 Re: The Packs Onv/Pile 3108,001 To White H May Consern This firm represents Testoro and Linuxies Suster, the homeowners of 620 Lava Heds Way fork has Vogen, hv. \$2014. Pursues of viewed have including (Darter 40 and section 40 of 5 of breaking Conject Stantics, we are president do senter of states, its possibility of defects and breaking of service Revised Stantics, we are president do senter of states. Its possibility of defects and breaking of service Revised Stantics, we are president do senter of states. Its possibility of defects and breaking of service Revised Stantics, we are president of the senter of states in a damage of the reported, methods in whice Revised Stantics of the Parts Development. The defect is not damage of the reported, methods of the sector of the parts backs, shows a public would trive detectorition sector (sector) concrete defectively an order of the backs, three a public of square violations to for (once photon problems), develate to the sector of the observation to a sector of square violations with plastic (to matche defective tion and/or accounting three defection to the sector) problems with plastic (to matche defective tion and/or accounting three defection to the sector) of the sector (to the states defective tion and the sector) and the sector of the sector of the sector of matches derivers and the sector of Additional information and defents reserving these larges, which as plotographic term be found on the error of the sector. rate by spice **拉马尔**斯特别的 and see a second disc. Under the above blevade saw, this porties has certain consequences, such as increations, a propportion of the spectrum of the magnetic field provide the suggest that such as the first such as possible in order to define the understand these waters. Please direct any sold all these constraints correspondence concorring the matter to my attention of the spectrum defines. **这个时间,在国际的国际**的东京通 Very Staly yount, SHINNICK, RYAN & RANSAVAOL PC Uluma S DISS/Joint Tricl: disc Danse B. Shinsick Ationary of Tau 國家建設的認知。新國行為 A STATE STATE STATE STATE STATE n en en en Notine inter-traca with the of fathering · utomutation/sugara

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### Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 6 of 7

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|  |  | October 2, 2009)  |  |  |
|  | VIA CORTINED MAD RET<br>CUNTUR HUMUS<br>5350 Polyted Minore Read   |   |  |  |
|  | Suite 200<br>Luc Vague, NM 20149   |   |  |  |
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#### Case 2:15-cv-00460-JAD-PAL Document 43-60 Filed 09/19/16 Page 7 of 7

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# SHINNICK, RYAN & RANSAVAGE P.C. 2881 BUSINESS PARK. COURT, SUITE 210, LAS VEGAS, NEVADA 89128 FACSTATUR: (702):631-6024 CHERTICANE: (702) 631-8016 Wep Stra: www.mliphw.com TOLL PREE (800) 253-9741 November 2, 2009 VASCER UPED MAIL REPORT RECEIPT CENTEX HOMES 5550 Parmied Marage Road Sude 200 Los Vegas, NV 39149 in Ro: The Parks Our File 3108 001 To Whom I May Concern: This firm represents Royald and Kathi Tanax; the homeowarrs of 6614 Montename Castle Lt. This firm represents Reputed and Solid Incoser, the homeoveness of 6610 Montename Castle Let, North Lus Vegas, NV 59054 Parmanil to Newida law including Chapter 40 and action 40.545 of Newada Revised Statutes, we are providing this based of olsting for countractorial detects and breakbaster Warranty in this house at Tes Parts Development. The defects and damage to be repaired, mediated, and/or litigened include concrete detectantion, driverall oracis, tile grout problems loose thistare, phonebastic problems, example the creater countration preparation, problems with plastic lab and/or acparation, phonebastic problems, canador operation, catarios wood trime detectation and/or acparation, analog problems, and the underlying causes of these synaptices. Additional information and/or acparation, analog and the underlying causes of these synaptices. Additional information and details concerning these from a platformation, can be found on the endered disc. Under the slows Novada law, this under has been consequences, such as inspections, a prompt response, and pre-filing mediation. We magness first mediator immer K. Ecknamn be egoted upon for the handling of this pre-filing mediation. Places contact the undersigned as som as possible in order to discuss these mathematics. Places direct any and all future correspondence concerning this matter to my attention at the above address. Very truly yours, SHINNICK, RYAN & RANSAVAGE P.C. Dunne E. Shinnick Arakirney at Law DESO

**ISIC 1489** 

WANT ALSO REAL

Case 2:15-cv-00460-JAD-PAL Document 43-61 Filed 09/19/16 Page 1 of 2

# EXHIBIT 101

Midlands claim note dated September 3, 2010 (ISIC 1364)

Claimant M/A Wage Records Medical Reports & Billings Contact Witnesses or other partles. Secure: R/S Other Retain Independent Adjuster to: Photo and/or measure /diagram accident scene Secure R/S of Other Report to IRONSHORE INDEMNITY COMPANY in 30 days Prepare reserve revision form MCA ONLY Complete aggregate form Submit copy of file to Attorney COVERAGE COUNSEL IF INDICATED - LETS DISCUSS FIRST Do suit log to MARCI on opening and closing of file. Minor Involved? No Yes Date of Birth DND Until? Other Suit Filed: Yes No Tender: Yes No Answer: Yes No

8/30/2010 - CLERICAL - Flat Service Regular 0.0 ATTACHED LOSS RUN AND POLICY LIMITS TO FILE

#### 9/3/2010 - JPSPEARMAN - Flat Appraisal Fee 0.0

REVIEW

OBTAINED A MATRIX IN THIS CASE SHOWING DATES FROM 2000 THROUGH 2003. HOMES LOCATED IN NORTH LAS VEGAS, NV. IRONSHORE 14B

9/13/2010 - JPSPEARMAN - Flat Appraisal Fee 0.0

#### **ICFN**

Factual Background This action involves single-family residences located in the city of North Las Vegas, Nevada. It appears Champion Masonry completed their work on the homes/lots involved in this case from 2000 through 2003. The documents supplied to us revealed the construction involved in this project was completed by Champion Masonry before the policy inception date. The Policy Ironshore issued Policy Number 011040905001 with effective dates of May 31, 2009 to May 31, 2010. The policy

Case 2:15-cv-00460-JAD-PAL Document 43-62 Filed 09/19/16 Page 1 of 4

# EXHIBIT 102

September 15, 2010 letter from Midlands to Ironshore (ISIC 1449-1451)

# MIDLANDS



September 15, 2010

#### ATTN: JOHN REUSCH IRONSHORE INSURANCE SERVICES LLC JOHN.REUSCH@IRONSHORE.COM

| Re: | Brundege, et | al. v. | Centex Homes                 |
|-----|--------------|--------|------------------------------|
|     | Insured      | ÷.     | Champion Masonry             |
|     | Policy No.   | :      | 011040905001                 |
|     | Policy Dates | :      | May 31, 2009 to May 31, 2010 |
|     | Claimant     | :      | Brundege, et al.             |
|     | Project      | ;      | The Parks                    |
|     | Our File No. | :      | 113658                       |

This will serve as our initial report on the above captioned matter,

#### Assignment

We have been asked to assist Ironshore in the investigation of a construction defect allegation.

#### Factual Background

This action involves single-family residences located in the city of North Las Vegas, Nevada. It appears Champion Masonry completed their work on the homes/lots involved in this case from 2000 through 2003.

The documents supplied to us revealed the construction involved in this project was completed by Champion Masonry before the policy inception date.

#### The Policy

Ironshore issued Policy Number 011040905001 with effective dates of May 31, 2009 to May 31, 2010. The policy contains an Each Occurrence Limit of \$1,000,000.00 and a General Aggregate Limit in the amount of \$2,000,000.00.

The policy is also subject to numerous exclusions and endorsements, including but not limited to, the wrap up exclusion and the Continuous or Progressive Injury or Damage Exclusion (IB.EX.014B 7/08Ed).

California • New York • Oklahoma • Texas

Midlands Claim Administrators, Inc. + 3503 NW 63<sup>rd</sup> Street, Suite 305, Oklahoma City, OK 73116 Phone: 405.840.0074 • Fax; 405,840.0584 • www.midlandselaim.com

To: John Reusch Re: Champion Masonry Date: September 15, 2010

Based on our review of the materials and information submitted regarding the subject project, we recommend a declination of coverage for this claim. Our reasons for this conclusion include:

- The claims made do not fall within the scope of the insuring agreement as discussed above;
- The project was completed by Champion Masonry prior to the Ironshore policy's issue date and is excluded under the Continuous or Progressive Injury or Damage Exclusion.

#### Liability Analysis

We have not been provided with a copy of the defect list or cost of repair.

#### Injuries/Damages

We have not received a defect list related to this claim.

#### **Reserve Analysis**

#### REDACTED

#### Litigation Plan

As this matter appears to fall outside the scope of coverage, we do not plan to direct, or participate in any possible litigation related to this claim.

#### Action Plan

- 1. Pending your approval, send Declination of coverage, outlining our understanding of the facts and coverage issues and our reasons for concluding that there is no coverage obligation in this case.
- 2. Monitor, or hold in abeyance for 30 days. If no response at that time, we will close our file.

To: John Reusch Re: Champion Masonry Date: September 15, 2010

#### Next Report Date

None, if no response is received in 30 days,

Yours very truly, Midlands Claim Administrators, Inc.

230

John P. Spearman

JS/mb

**ISIC 1451** 

Case 2:15-cv-00460-JAD-PAL Document 43-63 Filed 09/19/16 Page 1 of 9

# EXHIBIT 103

September 15, 2010 disclaimer letter from Midlands to Champion Masonry (cc EMC Insurance Companies) (ISIC 1452-1459)

# MIDLANDS



September 15, 2010

#### VIA REGULAR & CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

#### ATTN OFFICE MANAGER CHAMPION MASONRY PO BOX 35680 LAS VEGAS NV 89113

| Re: | Brundege, et | tal. | v. Centex Homes              |
|-----|--------------|------|------------------------------|
|     | Insured      | :    | Champion Masonry             |
|     | Policy No.   | ;    | 011040905001                 |
|     | Policy Dates | :    | May 31, 2009 to May 31, 2010 |
|     | Claimant     | :    | Brundege, et al.             |
|     | Project      | :    | The Parks                    |
|     | Our File No. | *    | 113658                       |

Dear Champion Masonry:

On behalf of Ironshore Specialty Insurance Company (hereinafter, "Ironshore"), this letter will serve to acknowledge receipt of the above captioned matter by this office. We are the claim administrators for this program. Please make note of our claim number and direct all future correspondence to this office, to the attention of this writer using our claim number as a reference.

Based on these documents and other information submitted, we have determined that this claim does not fall within the scope of coverage, or is otherwise excluded from coverage under the Ironshore policy, or policies issued to Champion Masonry. As such, unless additional, new or different information is provided, Ironshore must deny your request for coverage in this matter. Our reasons for concluding that there is no coverage are explained below.

#### Factual Background

This action involves single-family residences located in the city of North Las Vegas, Nevada. It appears Champion Masonry completed their work on the homes/lots involved in this case from 2000 through 2003.

Midlands Claim Administrators, Inc. • 3503 NW 63<sup>rd</sup> Street, Suite 305, Oklahoma City, OK 73116 Phone: 405.840.0074 • Fax: 405.840.0584 • www.midlandsclaim.com

California • New York • Oklahoma • Texas

**ISIC 1452** 

To: Champion Masonry Re: Brundege, et al. v. Champion Masonry Date: September 15, 2010

The documents supplied to us revealed the construction involved in this project was completed by Champion Masonry before the policy inception date.

#### The Policy

Ironshore issued Policy Number 011040905001 with effective dates of May 31, 2009 to May 31, 2010. The policy contains an Each Occurrence Limit of \$1,000,000.00 and a General Aggregate Limit in the amount of \$2,000,000.00.

Based on the facts of this matter as reported to Ironshore, when compared to the terms, conditions, exclusions and endorsements of the Ironshore policy or policies at issue, this claim does not fall within the coverage provided under the policy or policies under which coverage is being sought.

#### **Declination of Coverage**

Ironshore respectfully disclaims coverage in this matter subject to the terms, conditions, exclusions and limits of the Ironshore policy, and the applicable law. Champion Masonry completed their work on this project prior to inception of the policy. Therefore, coverage would not be triggered due in part to the Continuous or Progressive Injury or Damage Exclusion.

#### Who is an Insured

The policy contains a description of who is considered an insured under the policy. **SECTION II WHO IS AN INSURED**, states:

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - **b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - **c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business.

- To: Champion Masonry
- Re: Brundege, et al. v. Champion Masonry
- Date: September 15, 2010

Your managers are insureds, but only with respect to their duties as your managers.

- **d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- 2 Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts 'within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds under this policy with respect to:

- (1) "bodily injury" or "personal and advertising injury":
  - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a, co-employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
  - (b) To the spouse, child, parent, brother or sister of that co "employee" or "volunteer worker" as a consequence of Paragraph (i) (a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (i)(a) or (b) above; or

Re: Brundege, et al. v. Champion Masonry

Date: September 15, 2010

(d) Arising out of his or her providing or failing to provide professional health care services.

#### SECTION II — WHO IS AN INSURED is amended by Endorsement – ADDITIONAL INSURED — OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies the insurance policy and reads as follows:

- A. Section II Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage' or "personal and advertising injury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - 2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

It is further agreed that such insurance as is afforded by this Policy for the benefits of an additional insured shall be primary and non-contributory.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- 1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
  - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - b. Supervisory, inspection, architectural or engineering activities.

Re: Brundege, et al. v. Champion Masonry

Date: September 15, 2010

- 2. "Bodily injury" or "property damage" occurring after:
  - a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
  - b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
  - c. "Property Damage" which manifests after expiration of the Policy.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

All other terms, exclusions and conditions of the policy remain unchanged.

The Ironshore policy also includes the (IB.EX.014B 7/08Ed) endorsement below:

#### CONTINUOUS OR PROGRESSIVE INJURY OR DAMAGE EXCLUSION

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any "bodily injury' or "property damage":

- 1. which first existed, or is alleged to have first existed, prior to the inception date of this policy. "Property damage" from "your work", or the work of any additional insured, performed prior to policy inception will be deemed to have first existed prior to the policy inception, unless such "property damage" is sudden and accidental and takes place within the policy period; or
- 2. which was, or is alleged to have been, in the process of taking place prior to the inception date of this policy, even if the such "bodily injury" or "property damage" continued during this policy period; or
- 3. which is, or is alleged to be, of the same general nature or type as a condition, circumstance or construction defect which resulted in "bodily injury" or "property damage" prior to the inception date of this policy.

Re: Brundege, et al. v. Champion Masonry

Date: September 15, 2010

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

All other terms, conditions and exclusions remain unchanged.

Ironshore respectfully declines coverage based upon the Continuous or Progressive Injury or Damage Exclusion. The notice of completion date or dates related to this claim indicates that the project was completed by Champion Masonry prior to inception of the Ironshore policy.

Another important aspect of the Ironshore policy is the endorsement below:

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

#### Description and Location of Operation(s):

#### All Operations:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement)

The following exclusion is added to paragraph 2., Exclusions of Coverage A - Bodily Injury and Property Damage Liability (Section I -Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the Schedule of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

Re: Brundege, et al. v. Champion Masonry

Date: September 15, 2010

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

1) Provides coverage identical to that provided by this Coverage Part;

2) Has limits adequate to cover all claims; or

3) Remains in effect.

All other terms, conditions and exclusions remain unchanged.

#### Conclusion

Based on our review of the materials and information submitted regarding the subject construction project, Ironshore must respectfully decline coverage for this claim. Our reasons for this conclusion include:

- The claims made do not fall within the scope of the insuring agreement as discussed above;
- The project was completed by Champion Masonry prior to the Ironshore policy's issue date and is excluded under the Continuous or Progressive Injury or Damage Exclusion.

Our reasons for denying your claim as stated in this correspondence, while comprehensive are not necessarily exhaustive, or complete. Ironshore specifically reserves the right to supplement, modify or change its reasons for limiting, or denying coverage under any terms conditions, or provisions of the policy as issued regardless of whether those provisions or reasons are now known, or stated herein. If you believe this denial of coverage is in error, Ironshore would appreciate any new or different information you have regarding our analysis or conclusions as stated herein. Ironshore stands willing to review any information or analysis you wish to provide Ironshore regarding this coverage position. Ironshore reserves the right to review the coverage position again, and change or add to it, should additional facts come to Ironshore's attention.

It is expressly understood that any further action undertaken by Ironshore in the investigation or the handling this action shall not be construed as a waiver of the rights of Ironshore to deny coverage under Champion Masonry's policy.

Ironshore reserves the right to commence and prosecute any legal action including but not limited to a declaratory relief action to obtain a judicial determination of whether the policies afford coverage for any of the claims made or damages sought in this matter.

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To: Champion Masonry

Re: Brundege, et al. v. Champion Masonry

Date: September 15, 2010

Note: We appreciate receiving all information electronically whenever possible. Please reference our file number on all correspondence and in the event you cannot respond electronically, please respond to the undersigned at the address below.

Yours very truly,

MIDLANDS CLAIM ADMINISTRATORS, INC. P.O. Box 23198 Oklahoma City, OK 73123 405-840-0950 ipspearman@midman.com

JPS/mb

cc: Attn: Fabian Mireles EMC Insurance Companies P.O. Box 5760 Peoria, AZ 85385-5760

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# EXHIBIT 104

Reserved

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# EXHIBIT 105

Reserved

|                          | Case 2:2  | 15-cv-00460-JAD-PAL Do                            | ocument 4     | 4 Filed 09/19/16       | Page 1 of 16                             |
|--------------------------|-----------|---|---------------|------------------------|--|
|                          |           |   |               |                        |  |
| 1                        | WILLIA    | M C. MORISON (No. 9872)                           | 1             |                        |  |
| 2                        |           | orisonprough.com<br>DN & PROUGH, LLP              |               |                        |  |
| 3                        |           | mino Diablo, Suite 100<br>Creek, CA 94597-3973    |               |                        |  |
| 4                        | Telephor  | ne: (925) 937-9990<br>e: (925) 937-3272           |               |                        |  |
| 5                        | Attorney  | s for Defendant                                   |               |                        |  |
| 6                        |           | IORE SPECIALTY<br>NCE COMPANY                     |               |                        |  |
| 7                        |           |   |               |                        |  |
| 8                        |           | UNITED  | O STATES      | DISTRICT COURT         |  |
| 9                        |           | D   | ISTRICT       | OF NEVADA              |  |
| 10                       |           | ANCE COMPANY OF AME<br>ERN INSURANCE COMPA        |               | Case No. 2:15-cv-00    | )460-JAD-PAL                             |
| 11                       | NEW YO    | ORK and AMERICAN<br>NTEE AND LIABILITY            |               |                        | NSHORE SPECIALTY                         |
| 12                       |           | NCE COMPANY,                                      |               | INSURANCE COM          | PANY'S APPENDIX OF<br>PORT OF ITS MOTION |
| 13                       |           | Plaintiffs,                                       |               | FOR SUMMARY J          |  |
| 14                       | V         | S.  |               | ORAL ARGUMEN           | T REQUESTED                              |
| 15                       |           | IORE SPECIALTY INSURA<br>NY and DOES 1-20 inclusi |               |                        |  |
| 16                       | comm      | Defendants.                                       | , v.,         |                        |  |
| 17                       |           | Derendunts.                                       |               |                        |  |
| 18                       | Р         | ursuant to Local Rule 10-3, I                     | Defendant     | Ironshore Specialty I  | nsurance Company                         |
| 19                       | ("Ironsho | ore") hereby submits this App                     | pendix of E   | Exhibits in Support of | its Motion for Summary                   |
| 20                       | Judgmen   | t, described in the index belo                    | W.            |                        |  |
| 21                       | NO.       |   | EXH           | IIBIT                  |  |
| 22                       | 1.        | Second Amended Complain                           | nt, filed Sej | otember 28, 2015. (S   | ee Docket No. 25.)                       |
| 23                       | 2.        | Plaintiffs' Supplemental Dis                      | closures, c   | lated October 14, 201  | 5  |
| 24                       | L         |   |               |                        |  |
| 25                       | ///       |   |               |                        |  |
| 26                       | ///       |   |               |                        |  |
| 27                       | ///       |   |               |                        |  |
| 28                       | ///       |   | -             | 1 -                    |  |
| Morison &<br>Prough, LLP | APPENDI   | X OF EXHIBITS                                     |               |                        | P.No. 2:15-cv-00460-JAD-PAL              |
|                          |           |   |               |                        |  |

|               | Insured: Cedco, Inc.  |
|---------------|---|
| 3.            | Ironshore policy no. 000194200 for policy period of April 1, 2010, to April 1, 2011 (ISIC 63-124)   |
|               | • Part 1 (ISIC 63-96)   |
|               | • Part 2 (ISIC 97-124)  |
| 4.            | Ironshore policy no. 000194200 for policy period of June 1, 2009, to April 1, 2010 (ISIC 1-62)  |
|               | • Part 1 (ISIC 1 – 34)  |
|               | • Part 2 (ISIC 35 – 62)   |
| <u>Anthem</u> | <u>Claim:</u>   |
| 5.            | Plaintiffs' Complaint for Damages filed on February 3, 2011, in Clark County Distric<br>Court, Nevada, in the action captioned <i>Anthem Country Club Community Association</i><br><i>Inc. v. Terravita Home Construction Company</i> , Case No. A-11-634626-D (" <i>Anthem</i> |
|               | action") (ISIC 183-206)   |
| 6.            | Third-Party Complaint filed by Terravita Home Construction Company, Inc. on June 23, 2011, in the <i>Anthem</i> action (ISIC 207-224)   |
| 7.            | August 18, 2011 letter from Zurich to Ironshore without attachments (attachments are Exhs. 5, 6 and 8) (ISIC 181-182)   |
| 8.            | August 1, 2008 Burkett & Wong preliminary defects list (ISIC 225-227)   |
| 9.            | <ul> <li>Excerpts of various Subcontracts between Cedco and Terravita Home Construction</li> <li>Part 1 (ISIC 409-438, 446-481, 482-493)</li> <li>Part 2 (ISIC 494, 496-97, 515-521, 524-525, 536-537, 540-549, 552-553, 574-576)</li> </ul>                                    |
|               | • Part 3 (ISIC 584, 589-598, 603-605, 628-630, 661)   |
| 10.           | March 11, 2013 letter from Midlands to Ironshore (ISIC 260-262)   |
| 11.           | March 11, 2013 disclaimer letter from Midlands to Cedco (ISIC 234-245)  |

Morison & Prough, LLP

Case No. 2:15-cv-00460-JAD-PAL

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| 12.     | Plaintiffs' Complaint filed on April 12, 2011, in Clark County District Court, Nevada, in |
|---------|---|
|         | the action captioned Seven Hills Master Community Association v. Granite Silver           |
|         | Development Partners, LP, Case No. A-11-639041-D ("Seven Hills action") (ISIC             |
|         | 4575-4591)  |
| 13.     | Third-Party Complaint filed by Cedco, Inc. on March 27, 2012, in the Seven Hills          |
|         | action (ISIC 4624-4646)   |
|         | • Part 1 (ISIC 4624-4629)   |
|         | • Part 2 (ISIC 4630-4646)   |
| 14.     | September 24, 2009 letter from Helm & Associates to Ironshore and others with             |
|         | enclosed Chapter 40 Notice, claimant's notice, defects list, reports and job file         |
|         | documents   |
|         | • Part 1 (ISIC 1100-1108, 1117-1135, 1139, 1143-1146, 1150)                               |
|         | • Part 2 (ISIC 1151-1162, 1164-1171, 1173-1175, 1177. 1180-1185, 1189,                    |
|         | 1191, 1194, 1201, 1203)   |
|         | • Part 3 (ISIC 1217-1220, 1232-1235, 1246-1248, 1261-1273)                                |
| 15.     | December 22, 2009 letter from Zurich to Ironshore (ISIC 1299-1300)                        |
| 16.     | April 26, 2010 letter from Midlands to Ironshore (ISIC 1290-1292)                         |
| 17.     | April 26, 2010 disclaimer letter from Midlands to Helm & Associates (cc Cedco and         |
|         | Travelers) (ISIC 1064-1071)   |
| Mohan ( | <u>Claim:</u>   |
| 18.     | December 2, 2011 letter from Zurich to Ironshore with enclosed subcontracts, purchase     |
|         | orders, Chapter 40 Notice, invoices and releases of mechanics' liens (ISIC 921-990)       |
|         | • Part 1 (ISIC 921-954)   |
|         | • Part 2 (ISIC 955-989)   |
| 19.     | December 21, 2011 letter from Midlands to Ironshore (ISIC 993-995)                        |
| ///     |   |
|         | - 3 -   |

| 20.             | December 21, 2011 disclaimer letter from Midlands to Cedco (cc Zurich) (ISIC 102    |
|-----------------|---|
|                 | 1035)   |
|                 | Insured: Debard Plumbing, Inc.  |
| 21.             | Ironshore policy no. 0110N0905001 for policy period of April 6, 2009, to April 6, 2 |
|                 | (ISIC 1504-1563)  |
|                 | • Part 1 (ISIC 1504-1537)   |
|                 | • Part 2 (ISIC 1538-1563)   |
| Drost C         | laim  |
| 22.             | Complaint filed on October 23, 2012, in Washoe County District Court, Nevada,       |
|                 | captioned Drost, et al. v. Silverwing Development ("Drost action") (ISIC 1635-1645  |
| 23.             | Third-Party Complaint filed by Silverwing Development on December 21, 2012, in      |
|                 | Drost action (ISIC 1648-1659)   |
| 24.             | October 17, 2012 letter from Zurich to Ironshore and others (ISIC 1572-1573)        |
| 25.             | November 5, 2012 letter from Midlands to Ironshore (ISIC 1590-1592)                 |
| 26.             | November 5, 2012 disclaimer letter from Midlands to Debard Plumbing (cc Zurich)     |
|                 | (ISIC 1578-1589)  |
| <i>Lino</i> Cla | aim   |
| 27.             | Construction Defect Class Action Complaint filed on December 29, 2011, in Washe     |
|                 | County District Court, Nevada, in the action captioned Lino, et al. v. Lakemont Cop |
|                 | Hills, LLC ("Lino action") (ISIC 4912-4922)   |
| 28.             | Third-Party Complaint filed by Lakemont Copper Hills, LLC on August 1, 2012 in      |
|                 | <i>Lino</i> action (ISIC 4935-4950)   |
| 29.             | September 27, 2011 letter from Castronova Law Offices to Ironshore with enclosed    |
|                 | matrix (ISIC 1700-1702)   |
| 30.             | November 10, 2011 letter from Zurich to Ironshore (ISIC 1672-1673)                  |
| 31.             | November 29, 2011 email from Zurich to Midlands with attached tender package        |
|                 |   |

Morison & Prough, LLP

Case No. 2:15-cv-00460-JAD-PAL

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| 32.            | December 13, 2011 letter from Midlands to Ironshore (ISIC 1692-1694)                  |
|----------------|---|
| 33.            | December 13, 2011 disclaimer letter from Midlands to Debard Plumbing (cc Zurich)      |
|                | (ISIC 1684-1691)  |
| <u>Wikey</u> ( | Claim   |
| 34.            | October 11, 2010 letter from counsel for K&M Homes to Debard Plumbing, with           |
|                | attached Chapter 40 Notices (ISIC 1733-1753)  |
| 35.            | January 25, 2011 letter from Midlands to Ironshore regarding claims identified in     |
|                | Chapter 40 Notices (ISIC 1728-1730)   |
| 36.            | January 25, 2011 disclaimer letter from Midlands to Debard Plumbing regarding claim   |
|                | identified in Chapter 40 Notices (ISIC 1755-1762)                                     |
| 37.            | March 1, 2012 letter from Zurich to Ironshore with attached Construction Defect Class |
|                | Action Complaint filed on June 21, 2011, in Washoe County District Court, Nevada, ir  |
|                | the action captioned Wikey, et al. v. K & M Homes of Nevada, LLC, et al., Case No.    |
|                | CV11-01836 ("Wikey action"), and Third-Party Complaint filed by K&M Homes of          |
|                | Nevada, LLC and K&M Homes, LLC on January 4, 2012, in the Wikey action (ISIC          |
|                | 1767-1795)  |
|                | Insured: Laird Whipple  |
| 38.            | Ironshore policy no. 017BW0905001 for policy period of April 15, 2009, to April 15,   |
|                | 2010 (ISIC 2304-2365)   |
|                | • Part 1 (ISIC 2304-2335)   |
|                | • Part 2 (ISIC 2336-2365)   |
| 39.            | Ironshore policy no. 000242101 for policy period of April 15, 2010, to April 15, 2011 |
|                | (ISIC 2366-2430)  |
|                | • Part 1 (ISIC 2366-2397)   |
|                | • Part 2 (ISIC 2398-2430)   |
| ///            |   |
| ///            |   |
|                | - 5 -   |

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| 40. | Plaintiffs' Construction Defect Complaint filed on March 3, 2008, in Clark County   |
|-----|---|
|     | District Court, Nevada, in the action captioned Bennett v. American West Homes, Inc.  |
|     | Case No. A558243 ("Bennett action") (with Exhibits to Complaint) (ISIC 4968-5815)   |
|     | • Part 1 (ISIC 4968-4987, ¶¶ 1-79)  |
|     | • Part 2 (ISIC 4988-5815, ¶¶ 79-end and Exh. F)   |
|     | • Part 3 (Exhs. C-D Excerpts) ((selected pages from ISIC 5026-5075)   |
| 41. | Third-Party Complaint filed by American West Homes, Inc. on November 14, 2008 in  |
|     | the Bennett action (ISIC 5816-5836)   |
| 42. | April 29, 2011 letter from Zurich to Ironshore (ISIC 2439-2440)   |
| 43. | May 27, 2011 letter from Midlands to Ironshore for policy effective April 15, 2009-   |
|     | 2010 (ISIC 2476-2478)   |
| 44. | May 27, 2011 letter from Midlands to Ironshore for policy effective April 15, 2010-   |
|     | 2011 (ISIC 2453-2455)   |
| 45. | May 27, 2011 disclaimer letter from Midlands to Southwest Foundations (dba Stewart  |
|     | & Sundell) for policy effective April 15, 2009-2010 (cc Zurich) (ISIC 2468-2475)  |
| 46. | May 27, 2011 disclaimer letter from Midlands to Southwest Foundations (dba Stewart  |
|     | & Sundell) for policy effective April 15, 2010-2011 (cc Zurich) (ISIC 2445-2452)  |
|     | Insured: Stewart & Sundell  |
|     | Ironshore policy no. 012A80905001 for policy period of March 1, 2009, to March 1,   |
| 47. |   |
| 47. | 2010 (ISIC 2541-2600)   |
| 47. | 2010 (ISIC 2541-2600)<br>• Part 1 (ISIC 2641-2572)  |
| 47. |   |
| 47. | • Part 1 (ISIC 2641-2572)   |
|     | <ul> <li>Part 1 (ISIC 2641-2572)</li> <li>Part 2 (ISIC 2573-2600)</li> </ul>  |
|     | <ul> <li>Part 1 (ISIC 2641-2572)</li> <li>Part 2 (ISIC 2573-2600)</li> <li>Ironshore policy no. 00167401 for policy period of March 1, 2010, to March 1, 2011</li> </ul>                  |
|     | <ul> <li>Part 1 (ISIC 2641-2572)</li> <li>Part 2 (ISIC 2573-2600)</li> <li>Ironshore policy no. 00167401 for policy period of March 1, 2010, to March 1, 2011 (ISIC 2479-2540)</li> </ul> |

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| 1      | <br>            |  |
|--------|-----------------|--|
| 2      | Anthem          | Claim  |
| 2 3    | 49.             | Excerpt from Claim Notes recording receipt of November 24, 2008 letter from counsel      |
|        |                 | for Terravita Home Construction Company to Stewart & Sundell and attached Chapter        |
| 4<br>5 |                 | 40 Notices of Anthem Country Club Community Association, Inc. and August 1, 2008         |
| 5<br>6 |                 | construction defect list (Z209851-967)   |
| ,      | 50.             | November 17, 2009 letter from Midlands to Ironshore (ISIC 2648-2651)                     |
|        | 51.             | November 17, 2009 disclaimer letter from Midlands to Stewart & Sundell (ISIC 2637-       |
|        |                 | 2647)  |
|        | 52.             | Plaintiff's Complaint for Damages filed on February 3, 2011, in Clark County District    |
|        |                 | Court, Nevada, in the Anthem action (ISIC 183-206)                                       |
|        | 53.             | Third-Party Complaint filed by Terravita Home Construction Company, Inc. on June         |
|        |                 | 23, 2011, in the Anthem action (ISIC 2686-2703)  |
|        | 54.             | January 10, 2012 letter from Zurich to Midlands and others (ISIC 2657-2660)              |
|        | 55.             | Excerpt of Midlands Claim Notes for this claim (ISIC 2622-2624) recording that in        |
|        |                 | response to Zurich/s 1/10/12 tender, Ironshore sent Zurich a copy of its previous denial |
|        | <u>Stallion</u> | Mountain   |
|        | 56.             | 9/18/09 letter from Helm & Associates to Ironshore and other insurers with attached      |
|        |                 | Chapter 40 Notices (ISIC 2949-2950 and 2827-37)  |
|        | 57.             | Plaintiff's Complaint filed on September 18, 2009, in Clark County District Court,       |
|        |                 | Nevada, in the action captioned Stallion Mountain Community Association v. William       |
|        |                 | Lyon Homes, Inc., Case No. A599651 ("Stallion Mountain action") (ISIC 5837-5846)         |
|        | 58.             | Answer and Third-Party Complaint filed by William Lyon Homes, Inc. on February 18,       |
|        |                 | 2011, in the Stallion Mountain action (ISIC 2849-2865)                                   |
|        | 59.             | August 4, 2004 letter from Stallion Mountain Homeowners' Association's counsel to        |
|        |                 | William Lyon Homes, Inc. and attached defect list (ISIC 2920-2946)                       |
|        |                 | • Part 1 (ISIC 2920-2932)  |
|        |                 | • Part 2 (ISIC 2933-2946)  |
|        |                 | - 7 -  |
|        | APPENDI         | IX OF EXHIBITS Case No. 2:15-cv-00460-JAD-PAL  |

APPENDIX OF EXHIBITS

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| 60.                      | October 27, 2009-July 28, 2010 Midlands claim notes (ISIC 2795-2807)                 |  |
|--------------------------|--|--|
| 61.                      | August 26, 2010 letter from Midlands to Ironshore (ISIC 2968-2970)                   |  |
| 62.                      | August 26, 2010 disclaimer letter from Midlands to Helm & Associates (cc Nevada      |  |
|                          | Concrete Services) (ISIC 2960-2967)  |  |
| 63.                      | December 13, 2010 letter from Zurich to Ironshore and others (ISIC 2842-2844)        |  |
| 64.                      | Excerpt of Midlands Claim Notes (ISIC 2816-2817)                                     |  |
| <u>Sun Cit</u>           | y Claim  |  |
| 65.                      | September 25, 2008 letter from Koeller Nebeker to Stewart & Sundell with enclosures  |  |
|                          | (ISIC 3030-3039)   |  |
| 66.                      | Complaint filed on January 22, 2010, in Clark County District Court, Nevada, in the  |  |
|                          | action captioned Sun City Anthem Community Association, Inc. v. Del Webb             |  |
|                          | Communities, Inc., Case No. A-10-608708-D ("Sun City action") (ISIC 5886-5896)       |  |
| 67.                      | Third-Party Complaint filed by Del Webb Communities, Inc., on March 18, 2010, in the |  |
|                          | Sun City action (ISIC 5897-5928)   |  |
| 68.                      | April 27, 2010 letter from Zurich to Ironshore and others (ISIC 2984-2986)           |  |
| 69.                      | Sun City Anthem – Lot Listing – Duplexes (ISIC 2987-2991)                            |  |
| 70.                      | May 28, 2010 disclaimer letter from Midlands to Koeller Nebeker, cc Nevada Concrete  |  |
|                          | Services (dba Stewart & Sundell) (ISIC 3053-3060) and                                |  |
|                          | May 28, 2010 disclaimer letter from Midlands to Helm & Associates, cc Nevada         |  |
|                          | Concrete Services (dba Stewart & Sundell) and Zurich (ISIC 3045-3052)                |  |
| Insured: JP Construction |  |  |
| 71.                      | United Specialty policy no. IRH00CQE0805001 for policy period of February 18, 2008,  |  |
|                          | to February 18, 2009 (ISIC 1803-1853)  |  |
|                          | • Part 1 (ISIC 1803-1826)  |  |
|                          | • Part 2 (ISIC 1827-1852)  |  |
| ///                      |  |  |
| ///                      |  |  |
|                          | - 8 -  |  |

| 72.             | Ironshore policy no. 00CQE0905001 for policy period of February 18, 2009, to        |
|-----------------|---|
|                 | February 18, 2010 (ISIC 1854-1908)  |
|                 | • Part 1 (ISIC 1854-1881)   |
|                 | • Part 2 (ISIC 1882-1908)   |
| 73.             | Ironshore policy no. 000143201 for policy period of February 18, 2010, to February  |
|                 | 2011 (ISIC 1909-1960)   |
|                 | • Part 1 (ISIC 1909-1937)   |
|                 | • Part 2 (ISIC 1938-1960)   |
| <u>Casallas</u> | <u>s Claim</u>  |
| 74.             | Plaintiffs' First Amended Class Action Construction Defect Complaint filed on Janua |
|                 | 7, 2011, in Washoe County District Court, Nevada, in the action captioned Casallas, |
|                 | al. v. Barker-Coleman Construction, LLC, Case No. CV10-03610 ("Casallas action"     |
|                 | (ISIC 1973-1986)  |
| 75.             | Plaintiffs' Third Amended Class Action Construction Defect Complaint filed on Aug   |
|                 | 29, 2011, in Washoe County District Court, Nevada, in the Casallas action (ISIC 21  |
|                 | 2160)   |
| 76.             | Baker-Coleman Construction, Inc.'s Third-Party Complaint filed on February 9, 2012  |
|                 | in the Casallas action (ISIC 2161-2178)   |
| 77.             | June 12, 2012 letter from Dallas National Insurance Company's counsel to United     |
|                 | Specialty Insurance Company (ISIC 1970-1972)  |
| 78.             | April 7, 2000 Subcontract Agreement between Coleman Development and J.P             |
|                 | Construction Co., Inc. (ISIC 2026-2041)   |
| 79.             | September 27, 2000 Subcontract Agreement between Coleman Development and J.F        |
|                 | Construction Co., Inc. (ISIC 2015-2025)   |
| 80.             | February 12, 2002 Subcontract Agreement between Coleman Development and J.P.        |
|                 | Construction Co., Inc. (ISIC 2042-2059)   |
| 81.             | Two Homeowners Matrixes (ISIC 2060-2081)  |

Morison & Prough, LLP

|                | Case 2:1   | 5-cv-00460-JAD-PAL Document 44 Filed 09/19/16 Page 10 of 16   |  |  |
|----------------|--|---|--|--|
| 1<br>2         | June 21, 2012 letter from Midlands to Ironshore for policy effective February 18, 2008-<br>2009 (ISIC 2256-2258)   |   |  |  |
| 3<br>4         | <ul> <li>83. June 21, 2012 letter from Midlands to Ironshore for policy effective February 18, 2010 (ISIC 2299-2301)</li> </ul>                            |   |  |  |
| 5<br>6         | 84.  |   |  |  |
| 7<br>8         | 85.  |   |  |  |
| 9<br>10        | 86.  | June 21, 2012 disclaimer letter from Midlands to JP Construction (cc Zurich) for policy effective February 18, 2009-2010 (ISIC 2287-2298)                 |  |  |
| 11<br>12       | <ul> <li>87. June 21, 2012 disclaimer letter from Midlands to JP Construction (cc Zurich) for effective February 18, 2010-2011 (ISIC 2205-2216)</li> </ul> |   |  |  |
| 13             | Insured: Universal Framing   |   |  |  |
| 14<br>15       | 88.  | United Specialty policy no. IRH00T960805001 for policy period of October 13, 2008, to October 13, 2009 (ISIC 3063-3112)                                   |  |  |
| 16<br>17       |  | <ul> <li>Part 1 (ISIC 3063-3091)</li> <li>Part 2 (ISIC 3092-3112)</li> </ul>  |  |  |
| 18<br>19       | 89. Ironshore policy no. 00T960905001 for policy period of October 13, 2009,   |   |  |  |
| 20<br>21       | 13, 2010 (ISIC 3113-3173)<br>• Part 1 (ISIC 3113-3146)   |   |  |  |
| 22             | • Part 2 (ISIC 3147-3173)  |   |  |  |
| 23<br>24       | Clark Claim           90.         Complaint for Damages filed on May 20, 2013, in Washoe County Second Judici  |   |  |  |
| 25             |  | District Court, Nevada, in the action captioned <i>Clark, et al. v. D.W. Arnold, Inc.</i> , Case No. CV13-01125 (" <i>Clark</i> action") (ISIC 5929-5964) |  |  |
| 26<br>27       |  | • Part 1 (ISIC 5929-5952, ¶¶ 1-end and Exhs. 1-2)   |  |  |
| 28             | • Part 2 (ISIC 5953-5964, Exhs. 2-3)   |   |  |  |
| ON &<br>1, LLP | APPENDI  | - 10 -<br>X OF EXHIBITS Case No. 2:15-cv-00460-JAD-PAL  |  |  |

#### Case 2:15-cv-00460-JAD-PAL Document 44 Filed 09/19/16 Page 11 of 16 1 91. Answer to Complaint for Damages and Third-Party Complaint filed by D.W. Arnold, 2 Inc. on May 31, 2013, in the *Clark* action (ISIC 3263-3285) 3 92. Subcontract Agreement (excerpts) between D.W. Arnold, Inc. and Universal Framing 4 (3193 - 3196)5 93. July 12, 2013 letter from Certus to Ironshore (ISIC 3327-3328) 6 94. July 12, 2013 disclaimer letter from Certus to Universal Framing (ISIC 3329-3338) 7 **Insured: Champion Masonry** 8 95 Ironshore policy no. 011040905001 for policy period of May 31, 2009, to May 31, 2010 9 (ISIC 1301-1362) 10 Part 1 (ISIC 1301-1334) 11 Part 2 (ISIC 1335-1362) 12 Garcia Claim: 13 96. November 17, 2011 letter from Zurich to Ironshore (ISIC 1397) 14 97. Plaintiffs' First Amended Construction Complaint filed on September 8, 2010, in the 15 action captioned Garcia, et al. v. Centex Homes, Case No. A-10-616729-D ("Garcia 16 action") (ISIC 4872-4911) (ISIC 4872-4911) 17 Part 1 (ISIC 4872-4891, ¶¶ 1-17) 18 Part 2 (ISIC 4892-4911, ¶¶ 17-end) 19 98. Answer and Third Party Complaint in the Garcia action dated September 30, 2010 20 (ISIC 1411-1432) 21 99. Homeowners/Close of Escrow Matrix (ISIC 1433-1446) 22 100. November 20, 2009 letter from counsel for Centex forwarding to Champion Masonry a 23 Chapter 40 Notice regarding *Garcia*, with attached homeowners' matrix and Chapter 40 24 Notices dated October 2, 2009 (ISIC 1475-1489) 25 101. Midlands claim note dated September 3, 2010 (ISIC 1364) 26 102. September 15, 2010 letter from Midlands to Ironshore (ISIC 1449-1451) 27 /// 28 - 11 -

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| 1        | 103. September 15, 2010 disclaimer letter from Midlands to Champion Masonry (cc EMC       |  |  |  |  |  |
|----------|---|--|--|--|--|--|
| 2        | Insurance Companies) (ISIC 1452-1459)   |  |  |  |  |  |
| 3        | 104. Reserved   |  |  |  |  |  |
| 4        | 105. Reserved   |  |  |  |  |  |
| 5        | 106. November 1, 2012 correspondence between Midlands and Ironshore (ISIC 1501-02)        |  |  |  |  |  |
| 6        | 107. November 6, 2012 disclaimer letter from Midlands to Lee, Hernandez law firm (cc      |  |  |  |  |  |
| 7        | Champion Masonry and Zurich) (ISIC 1461-1473)   |  |  |  |  |  |
| 8        | Marcel Claim  |  |  |  |  |  |
| 9<br>10  | 108. June 27, 2013 letter from Zurich to Ironshore, tendering this claim (ISIC 3700-3701) |  |  |  |  |  |
| 10       | 109. Subcontract between The Developers of Nevada, LLC and Champion Masonry dated         |  |  |  |  |  |
| 12       | April 20, 2001  |  |  |  |  |  |
| 13       | 110. Construction Defect Class Action Complaint filed on January 5, 2012, in Clark County |  |  |  |  |  |
| 14       | District Court, Nevada, in the action captioned Marcel v. The Developers of Nevada,       |  |  |  |  |  |
| 15       | <i>LLC</i> , Case No. A-12-654209-D (" <i>Marcel</i> action") (ISIC 3738-3751)            |  |  |  |  |  |
| 16       | 111. Defendant/Third-Party Plaintiff The Developers of Nevada, LLC's Third-Party          |  |  |  |  |  |
| 17       | Complaint filed on May 28, 2013, in the <i>Marcel</i> action (ISIC 3752-3763)             |  |  |  |  |  |
| 18       | 112. Litigation Escrow Matrix (ISIC 3698-3699)  |  |  |  |  |  |
| 19       | 113. August 6, 2013 letter from Certus to Ironshore (ISIC 3702-03)                        |  |  |  |  |  |
| 20       | 114. August 6, 2013 letter from Certus Claims to Lukestar Corp. dba Champion Masonry      |  |  |  |  |  |
| 21       | (ISIC 3726-3737)  |  |  |  |  |  |
| 22       | Insured: R.A.M.M. Corporation   |  |  |  |  |  |
| 23       | 115. Ironshore policy no. IRH 00V6P085001 (with the premium amount redacted), issued to   |  |  |  |  |  |
| 24       | R.A.M.M. Corporation, for the policy period of November 15, 2008, to November 15,         |  |  |  |  |  |
| 25       | 2009  |  |  |  |  |  |
| 26       | • Part 1 (ISIC 3776-3804)   |  |  |  |  |  |
| 27       | • Part 2 (ISIC 3805-3830)   |  |  |  |  |  |
| 28       | ///   |  |  |  |  |  |
| DRISON & | - 12 -  |  |  |  |  |  |

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| <u>Sanche</u>  | z Claim  |  |  |
|--|--|--|--|
| 116.   | 116. October 29, 2012 letter from KB Home Nevada, Inc.'s counsel, tendering claim to   |  |  |
|  | Ironshore and listing the close of escrow dates for the homes at issue (ISIC 4368-81)  |  |  |
| 117.   | Plaintiff's First Amended Complaint filed on November 1, 2010, in Clark County         |  |  |
|  | District Court, Nevada, in the action captioned Sanchez, et al. v. KB Home Nevada Inc. |  |  |
|  | Case No. A-10-616730-D ("Sanchez action") (ISIC 4302-4331)                             |  |  |
|  | • Part 1 (ISIC 4302-4318)  |  |  |
|  | • Part 2 (ISIC 4319-4331)  |  |  |
| 118.   | Defendant KB Home Nevada Inc.'s Answer to Plaintiffs' First Amended Complaint and      |  |  |
|  | Third-Party Complaint filed on November 23, 2010, in the Sanchez action (ISIC 4322-    |  |  |
|  | 4357)  |  |  |
|  | • Part 1 (ISIC 4332-4351)  |  |  |
|  | • Part 2 (ISIC 4352-4357)  |  |  |
| 119.   | November 14, 2012 letter from Midlands to Ironshore (ISIC 4284-86)                     |  |  |
| 120.   | November 14, 2012 letter from Midlands to R.A.M.M. Corporation (ISIC 4290-4301)        |  |  |
| 121. December 5, 2012 letter from Zurich to Midlands and others (ISIC 4383-86) |  |  |  |
| Insured: PR Construction Corporation   |  |  |  |
| Boyer (  | Claim  |  |  |
| 122.   | Ironshore policy no. 00XXV0905001 (with the premium amount redacted), issued to        |  |  |
|  | PR Construction Corporation, for the policy period of January 31, 2009, to January 31, |  |  |
|  | 2010 (ISIC 3353-3410)  |  |  |
|  | • Part 1 (ISIC 3353-3380)  |  |  |
|  | • Part 2 (ISIC 3381-3410)  |  |  |
| ///  |  |  |  |
| ///  |  |  |  |
| ///  |  |  |  |
| ///  |  |  |  |
|  | - 13 -   |  |  |

| 123. | Ironshore policy no. 000115801 (with the premium amount redacted), issued to PR             |  |  |
|------|---|--|--|
|      | Construction Corporation, for the policy period of January 31, 2010, to January 31,         |  |  |
|      | 2011 (ISIC 3551-3606)   |  |  |
|      | • Part 1 (ISIC 3551-3578)   |  |  |
|      | • Part 2 (ISIC 3579-3606)   |  |  |
| 124. | Plaintiffs' Third Amended Complaint filed May 14, 2012, in Clark County District            |  |  |
|      | Court, Nevada, in the action captioned Boyer, et al., v. PN II, Inc., Case No. A603841      |  |  |
|      | (" <i>Boyer</i> action") (ISIC 3456-3477)   |  |  |
|      | • Part 1 (ISIC 3456-3474, ¶¶ 1-48)  |  |  |
|      | • Part 2 (ISIC 3475-3477, ¶¶ 49-end)  |  |  |
| 125. | Third Party Complaint filed by PN II, Inc., on May 22, 2012, in the Boyer action (ISIC      |  |  |
|      | 3482-3497)  |  |  |
| 126. | August 1, 2012 letter from Zurich to Ironshore and others (ISIC 3422-3423)                  |  |  |
| 127. | Excerpt from the Midlands adjuster's claim notes incorporating an email dated August        |  |  |
|      | 22, 2012, from counsel for third-party defendant and third-party plaintiff PN II, Inc.      |  |  |
|      | (ISIC 3418)   |  |  |
| 128. | Close of Escrow Matrix for this claim, received from counsel for third-party defendant      |  |  |
|      | and third-party plaintiff PN II, Inc. (ISIC 3534-3535)                                      |  |  |
| 129. | Portions of subcontracts stating PR Construction Corporation's scope of work at the         |  |  |
|      | project at issue, received from counsel for third-party defendant and third-party plaintiff |  |  |
|      | PN II, Inc. (ISIC 3529-3550)  |  |  |
| 130. | Excerpt from the Midlands adjuster's claim notes incorporating an email dated August        |  |  |
|      | 22, 2012, from the adjuster to Ironshore, regarding Midlands' factual findings and          |  |  |
|      | proposed response to the tender of this claim to Ironshore (ISIC 3417)                      |  |  |
| 131. | August 29, 2012 letter from Ironshore to PR Construction (ISIC 3425-3436)                   |  |  |
| 132. | October 4, 2012 letter from counsel for PR Construction to Midlands with close of           |  |  |
|      | escrow dates for the homes in question (ISIC 3450-3453)                                     |  |  |

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|      | <b>DEPOSITIONS</b>  |  |  |  |
|------|---|--|--|--|
| 133. | Ironshore's Amended Notice of Deposition of American Guarantee and Liability          |  |  |  |
|      | Insurance Company, Assurance Company of America, and Northern Insurance               |  |  |  |
|      | Company of New York (FRCP 30(b)(6)), dated August 28, 2015                            |  |  |  |
| 134. | Ironshore's Notice of Deposition of Assurance Company of America and Northern         |  |  |  |
|      | Insurance Company of New York (FRCP 30(b)(6)), dated September 11, 2015               |  |  |  |
| 135. | Excerpts of September 28, 2015 certified deposition transcript of Andra Byrd          |  |  |  |
| 136. | Excerpts of September 28, 2015 certified deposition transcript of Brett Richardt      |  |  |  |
|      | • Part 1 (pp. 7-72)   |  |  |  |
|      | • Part 2 (Exhs. 8, 9, 13)   |  |  |  |
|      | • Part 3 (ISIC Exhs. 22, 29, 33)  |  |  |  |
| 137. | Excerpts of September 28, 2015 certified deposition transcript of Douglas Westhoff    |  |  |  |
| 138. | Excerpts of September 29, 2015 certified deposition transcript of Rachael Crammer     |  |  |  |
| 139. | Excerpts of September 29, 2015 certified deposition transcript of Elizabeth Del Rosar |  |  |  |
| 140. | Excerpts of October 2, 2015 certified deposition transcript of Bettyann Canzone       |  |  |  |
| 141. | Excerpts of October 2, 2015 certified deposition transcript of Bryan Key              |  |  |  |
|      | • Part 1 (pp. 1-58 (selected) and Exh. 97)  |  |  |  |
|      | • Part 2 (Exh. 101)   |  |  |  |
|      | PLAINTIFFS' REPORTS AND OTHER EVIDENCE  |  |  |  |
| 142. | November 11, 2013 Claim Summary Report for Cedco/Anthem                               |  |  |  |
| 143. | February 4, 2013 Claim Summary Report for Cedco/Seven Hills                           |  |  |  |
| 144. | February 1, 2012 Claim Summary Report for Cedco/Mohan                                 |  |  |  |
| 145. | November 21, 2012 Claim Summary Report for Debard Plumbing/Drost                      |  |  |  |
| 146. | Preliminary Cost of Repair for Claim Summary Report for Debard Plumbing/Drost         |  |  |  |
| 147. | August 26, 2014 Claim Summary Report for Debard Plumbing/Lino                         |  |  |  |
| 148. | June 2013 Reconstruction Cost Guides and Estimates for Debard Plumbing/Lino           |  |  |  |
| 149. | December 2, 2013 Claim Summary Report for Debard Plumbing/Wikey                       |  |  |  |

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| 1<br>2   | 150.   | December 17, 2012 Subco<br>Wikey  | ntractor Allocation (cost of repair) for Debard Plumbing/ |  |  |
|----------|--|---|---|--|--|
| 3        | 151.   |   | Summary Report for Laird Whipple/Bennett                  |  |  |
| 4        | 152. Homeowner Matrix for Laird Whipple/Bennett                              |   |   |  |  |
| 5        | 153. February 10, 2014 Claim Summary Report for Stewart & Sundell/Anthem     |   |   |  |  |
| 6        | 154.   |   |   |  |  |
| 7        | 155.   |   |   |  |  |
| 8        | 156.   | August 20, 2014 Claim Summary Report for JP Construction/ <i>Casallas</i> |   |  |  |
| 9<br>10  | 157.   |   |   |  |  |
| 10<br>11 | 158. August 11, 2014 Claim Summary Report for Champion Masonry/Marcel        |   |   |  |  |
| 11       | 159. February 25, 2013 Claim Summary Report for R.A.M.M. Corporation/Sanchez |   |   |  |  |
| 12       | 160.   |   |   |  |  |
| 13       | 161.   | January 25, 2012 excerpt f  | rom claim notes of Plaintiffs' adjuster regarding Debard  |  |  |
| 15       |  | Plumbing/Lino   |   |  |  |
| 16       | 162.   | First page of declaration pa  | ages of policies insuring Tom Hopson dba Universal Framir |  |  |
| 17       |  | or Universal Framing LLC  | issued by one or more Plaintiffs in this action           |  |  |
| 18       | Dated: S   | September 19, 2016  | Respectfully submitted,                                   |  |  |
| 19       | Duited. C  | September 19, 2010  | MORISON & PROUGH, LLP                                     |  |  |
| 20       |  |   |   |  |  |
| 21       |  |   | Bv <sup>.</sup> /s/ William C. Morison                    |  |  |
| 22       |  |   | By: <u>/s/ William C. Morison</u><br>William C. Morison   |  |  |
| 23       |  |   | Attorneys for Defendant<br>IRONSHORE SPECIALTY            |  |  |
| 24       |  |   | INSURANCE COMPANY   |  |  |
| 25       |  |   |   |  |  |
| 26       |  |   |   |  |  |
| 27       |  |   |   |  |  |
| 28       |  |   |   |  |  |
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# EXHIBIT 106

November 1, 2012 correspondence between Midlands and Ironshore (ISIC 1501-02)

## Case 2:15-cv-00460-JAD-PAL Document 44-1 Filed 09/19/16 Page 2 of 4

From: Sanford Oster [mailto:Sanford.Oster@ironshore.com] Sent: Thursday, November 01, 2012 6:59 PM To: Robert Weingarten; Mel L. Proffitt Subject: Fw: CL # 113658 / Brundege / Champion Masonry

OK to issue

Sanford Oster, AVP

**Casualty Claims** 

Ironshore

One State Street Plaza

New York, NY 10004

646 826-4944-Office

347 759-1976-Cell

Sanford.oster@ironshore.com

From: Robert Weingarten [mailto:rweingarten@mldman.com] Sent: Thursday, November 01, 2012 06:14 PM

To: Sanford Oster

Cc: Mei L. Proffitt MLPROFFITT@midman.com

Subject: CL # 113658 / Brundege / Champion Masonry

Re: Brundege, et al v Centex Homes, et al

Insured : Champion Masonry

Policy No. : 011040905001 effective May 31, 2009-10

Claimant : Brundege, et al

**ISIC 1501** 

## Case 2:15-cv-00460-JAD-PAL Document 44-1 Filed 09/19/16 Page 3 of 4

Our File No. ; 113658-MP

Sandy -

Attached please find a supplemental copy of our initial report and recommended AI declination of coverage letter, as they pertain to the above-referenced matter.

This action involves allegations of construction defect and property damage made by the owners of residences located in the city of North Las Vegas, NV. It appears Champion Masonry completed their work on the project(s) involved in this case from 2000 to 2003.

The documents supplied to us revealed the construction involved in this project was completed by Champion Masonry before the policy inception date. Ironshore issued (1) CGL policy to the named insured spanning from 5/31/09-10.

As the insured's work was completed prior to the inception of the ironshore policies, given the nature of the plaintiffs' allegations, and given that the policy adopts the Continuous or Progressive Injury Exclusion, it is our position that coverage is precluded for the tendering developer. Ironshore previously authorized the issuance of a NI declination letter. Attached for your review and authority to submit, please find a draft NI declination letter. Please advise if we are authorized to issue same.

Should you have need for additional information, or have any questions or concerns in this regard, please do not hesitate to contact us.

Thank you for your attention to this matter.

Rob Weingarten Assistant Vice President

Midlands Claim Administrators, Inc.

3503 N.W. 63rd Street

**ISIC 1502** 

# Case 2:15-cv-00460-JAD-PAL Document 44-1 Filed 09/19/16 Page 4 of 4

Oklahoma Clty, Oklahoma 73116

Direct Line (949) 463-2112

Fax (405) 840-0584

E-mail: rweingarten@midman.com malito:rweingarten@midman.com

# EXHIBIT 107

November 6, 2012 disclaimer letter from Midlands to Lee, Hernandez law firm (cc Champion Masonry and Zurich) (ISIC 1461-1473)

## Case 2:15-cv-00460-JAD-PAL Document 44-2 Filed 09/19/16 Page 2 of 14



Re:

P.O. Box 23198 Oklahoma City, OK 73123-1778 Phone: 405.840.0950 Fax: 405.840.0584 www.midlandsclaim.com Midlands Claim Administrators, Inc. M L Proffitt, Jr Claims Examiner <u>MLProffitt@midman.com</u> 405.426.6101 (Direct)

November 6, 2012

## VIA REGULAR & CERTIFIED MAIL

Attn David Wedemeyer, Esq. Lee Hernandez Brooks Garofalo & Blake 7575 Vegas Drive # 150 Las Vegas, NV 89128

> Brundege, et al v Centex Homes, et al Insured : Champion Masonry Deling New 901104000501 officient May 2

| Policy No.   | : | 011040905001 effective May 31, 2009-10 |
|--------------|---|--|
| Claimant     | : | Brundege, et al                        |
| Our File No. | : | 113658-MP                              |

Dear Mr. Wedemeyer:

On behalf of Ironshore Specialty Insurance Company (hereinafter, "Ironshore"), this letter will serve to acknowledge receipt of the above captioned matter by this office. We are the claim administrators for this program. Please make note of our claim number and direct all future correspondence to this office, to the attention of this writer using our claim number as a reference.

This claim was initially created as a result of Centex Homes, et al seeking additional insured status. Based on these documents and other information submitted, we have determined that this claim does not fall within the scope of coverage, or is otherwise excluded from coverage under the Ironshore policy, or policies issued to Champion Masonry. As such, unless additional, new or different information is provided, Ironshore must deny your request for coverage in this matter. Our reasons for concluding that there is no coverage are explained below.

## Factual Background

This action involves allegations of construction defect and property damage made by the owners of residences located in the city of North Las Vegas, NV.

Member of Old Republic Companies

**ISIC 1461** 

To: Lee Hernandez Brooks Garofalo & Blake Re: Brundege, et al v Centex Homes, et al Date: November 6, 2012

It appears Champion Masonry completed their work on the project(s) involved in this case from 2000 to 2003.

The documents supplied to us revealed the construction involved in this project was completed by Champion Masonry before the policy inception date.

## The Policy

Ironshore issued Policy Number 011040905001 effective May 31, 2009-10. The policy contains an Each Occurrence Limit of \$1,000,000.00 and a General Aggregate Limit in the amount of \$2,000,000.00.

Based on the facts of this matter as reported to Ironshore, when compared to the terms, conditions, exclusions and endorsements of the Ironshore policy or policies at issue, this claim does not fall within the coverage provided under the policy or policies under which coverage is being sought.

## Declination of Coverage

Ironshore respectfully disclaims coverage in this matter subject to the terms, conditions, exclusions and limits of the Ironshore policy, and the applicable law. Champion Masonry completed their work on this project prior to inception of the policy. Therefore, coverage would not be triggered due in part to the Continuous or Progressive Injury or Damage Exclusion.

## SECTION I - COVERAGES

## COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

- 1 Insuring Agreement
  - A. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

To: Lee Hernandez Brooks Garofalo & Blake Re: Brundege, et al v Centex Homes, et al Date: November 6, 2012

- (1) The amount we will pay for damages is limited as described in Section III Limits of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A, B. and C.

- B. This Insurance applies to "bodily injury" and "property damage" only if:
  - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

The Ironshore policies contain the following pertinent definitions:

## **SECTION V - DEFINITIONS**

- 13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 14. "Products-completed operations hazard"
  - Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except;

**ISIC 1463** 

Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
  - (a) When all of the work called for in your contract has been completed.
  - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
  - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:
  - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
  - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
  - (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products completed operations are subject to the General Aggregate Limit.
- 17. "Property Damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- To: Lee Hernandez Brooks Garofalo & Blake
- Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.
- 21. "Your Products":
  - a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

## 22 "Your work":

- a. Means:
  - (1) Work or operations performed by you or on your behalf; and
  - (2) Materials, parts or equipment furnished in connection with such work or operations.

The Ironshore policies contain the following pertinent Exclusions:

- 2. Exclusions
- j. Damage to Property
  - (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

ISIC 1465

To: Lee Hernandez Brooks Garofalo & Blake Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

(6) That particular part of any property that much be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage to Premises Rented To You as described in Section III – Limits of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

This insurance does not apply to:

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

I. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

## Who is an Insured

## SECTION II WHO IS AN INSURED, states:

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - **b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - **c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and

Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- 2 Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds under this policy with respect to:

- (1) "bodily injury" or "personal and advertising injury":
  - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a, co-employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
  - (b) To the spouse, child, parent, brother or sister of that co "employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.

Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

The Ironshore policy also includes the (IB.EX.014B 7/08Ed) endorsement below:

## CONTINUOUS OR PROGRESSIVE INJURY OR DAMAGE EXCLUSION

This endorsement modifies insurance provided under the following:

## COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any "bodily injury' or "property damage":

- 1. which first existed, or is alleged to have first existed, prior to the inception date of this policy. "Property damage" from "your work", or the work of any additional insured, performed prior to policy inception will be deemed to have first existed prior to the policy inception, unless such "property damage" is sudden and accidental and takes place within the policy period; or
- 2. which was, or is alleged to have been, in the process of taking place prior to the inception date of this policy, even if the such "bodily injury" or "property damage" continued during this policy period; or
- 3. which is, or is alleged to be, of the same general nature or type as a condition, circumstance or construction defect which resulted in "bodily injury" or "property damage" prior to the inception date of this policy.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

All other terms, conditions and exclusions remain unchanged.

Ironshore respectfully declines coverage based upon the Continuous or Progressive Injury or Damage Exclusion. Paragraph (1) of the Continuous Damage Exclusion provides that (a) property damage from the insured's work performed prior to the policy period will be deemed to have existed prior to the policy period and (b) there is no coverage for property damage which first existed or is alleged to have existed prior to inception of the policy. Here, the dates for Champion Masonry's work at the subject properties are all prior to the policy inception date. Therefore, even if property damage occurred at the properties within the policy period, the Continuous Damage Exclusion operates to exclude coverage where Champion Masonry's work was performed prior to the policy period. To: Lee Hernandez Brooks Garofalo & Blake Re: Brundege, et al v Centex Homes, et al Date: November 6, 2012

Paragraph (1) of the Continuous Damage Exclusion contains an exception to the exclusion for property damage that is sudden and accidental and takes place within the policy period. It is Champion Masonry's or Centex Homes, et al's burden to show the claim falls within the exception to the exclusion.

Another important aspect of the Ironshore policy is the endorsement below:

## THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

## SCHEDULE

## Description and Location of Operation(s):

## All Operations:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement)

The following exclusion is added to paragraph 2., Exclusions of Coverage A - Bodily Injury and Property Damage Liability (Section I - Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the Schedule of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

1) Provides coverage identical to that provided by this Coverage Part;

- 2) Has limits adequate to cover all claims; or
- 3) Remains in effect.

All other terms, conditions and exclusions remain unchanged.

**ISIC 1470** 

To: Lee Hernandez Brooks Garofalo & Blake Re: Brundege, et al v Centex Homes, et al Date: November 6, 2012

## SECTION II — WHO IS AN INSURED is amended by Endorsement – ADDITIONAL INSURED — OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies the insurance policy and reads as follows:

- A. Section II Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage' or "personal and advertising injury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - 2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

It is further agreed that such insurance as is afforded by this Policy for the benefits of an additional insured shall be primary.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- 1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
  - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - b. Supervisory, inspection, architectural or engineering activities.
- 2. "Bodily injury" or "property damage" occurring after:

- To: Lee Hernandez Brooks Garofalo & Blake
- Re: Brundege, et al v Centex Homes, et al

Date: November 6, 2012

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- **b.** That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- c. "Property Damage" which manifests after expiration of the Policy.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

All other terms, conditions and exclusions of the policy remain unchanged,

## Conclusion

Based on our review of the materials and information submitted regarding the subject construction project, Ironshore must respectfully decline coverage for this claim. Our reasons for this conclusion include:

- The claims made do not fall within the scope of the insuring agreement as discussed above;
- The project was completed by Champion Masonry prior to the Ironshore policy's issue date and given the nature of the allegations is excluded under the Continuous or Progressive Injury or Damage Exclusion;

Our reasons for denying your claim as stated in this correspondence, while comprehensive are not necessarily exhaustive, or complete. Ironshore specifically reserves the right to supplement, modify or change its reasons for limiting, or denying coverage under any terms conditions, or provisions of the policy as issued regardless of whether those provisions or reasons are now known, or stated herein. If you believe this denial of coverage is in error, Ironshore would appreciate any new or different information you have regarding our analysis or conclusions as stated herein. Ironshore stands willing to review any information or analysis you wish to provide Ironshore regarding this coverage position. Ironshore reserves the right to review the coverage position again, and change or add to it, should additional facts come to Ironshore's attention. To:Lee Hernandez Brooks Garofalo & BlakeRe:Brundege, et al v Centex Homes, et alDate:November 6, 2012

It is expressly understood that any further action undertaken by Ironshore in the investigation or the handling this action shall not be construed as a waiver of the rights of Ironshore to deny coverage under Champion Masonry's policy.

Ironshore reserves the right to commence and prosecute any legal action including but not limited to a declaratory relief action to obtain a judicial determination of whether the policies afford coverage for any of the claims made or damages sought in this matter.

Note: We appreciate receiving all information electronically whenever possible. Please reference our file number on all correspondence and in the event you cannot respond electronically, please respond to the undersigned using the contact information on the first page letterhead.

Yours very truly,

M. L. Proffitt, Jr.

MP/mb

cc: Champion Masonry P. O. Box 35680 Las Vegas, NV 89113

> Zurich P. O. Box 66965 Chicago, IL 60666-0965

# EXHIBIT 108

June 27, 2013 letter from Zurich to Ironshore, tendering this claim (ISIC 3700-3701)

(0)

Case 2:15-cv-00460-JAD-PAL Document 44-3 Filed 09/19/16 Page 2 of 3



June 27, 2013

Ironshore Specialty Insurance Company 600 Wilshire Boulevard, Suite 1600 Los Angeles, CA 90017

## Notice of New Claim & Tender of Defense

RE: Case: Venue: Mutual Insured: Your Policy No.: Zurich Claim No.; Marcel, et al v. The Developers of Nevada Clark County District Court Case No.: A-12-654209-D Lukestar Corporation, dba Champion Masonry, Inc. 011040905001 [5/31/09 – 05/31/10] 926-0125270

Zurich

Construction & Defect Claims Services PO Box 66965 Chicago, IL 60665-0965

www.zurich.com

Douglas C. Westhoff Claims Specialist III (702) 408-3833 direct line (866) 257-1205 fax douglas.westhoff@zurichna.com Dear Claims Representative:

The purpose of this letter is to tender the defense and indemnity on behalf of Lukestar Corporation, dba Champion Masonry, Inc. under any and all insurance policy(ies) your company issued to our mutual insured, including policy number 011040905001with reference to the above-noted case.

Please find enclosed a copy of the Subcontract, Chapter 40 Notice, Complaint, Third-Party Company and, Homeowners Matrix.

While it is clear the homes in this case were completed prior to the inception of the Ironshore Specialty Insurance Company policy and some of the claims may be barred pursuant to exclusions for Continuous and/or Progressive Property Damages, it is well established in Nevada that new damages can, and to arise at times out of a latent defect, possibly during your policy term.

Absent a formal manifestation investigation to support a denial based solely on a continuous/progressive damages-type exclusion which conclusively establishes there was no original occurrence of property damage during your policy period, Ironshore Specialty Insurance Company has a defense obligation.

If you have conducted a thorough manifestation investigation that substantially evidences that any and all property damage did not occur within your policy term, please include this supporting documentation with your formal coverage position correspondence.

I look forward to your prompt and favorable response to this tender. It should be clearly understood, the Zurich carriers reserves all its rights to seek reimbursement for any and all monies expended in this matter.

**ISIC 3700** 

# Case 2:15-cv-00460-JAD-PAL Document 44-3 Filed 09/19/16 Page 3 of 3

March 6, 2009 Page 2

Sincerely, American Guarantee and Liability Insurance Company

ił.

Douglas C. Westhoff

Douglas. C. Westhoff Claim Specialist III

Encl.

**ISIC 3701** 

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# EXHIBIT 109

Subcontract between The Developers of Nevada, LLC and Champion Masonry dated April 20, 2001

(Page 5 of 16)

## 05/31/2013 08:28 Dove Canyon

(FAX)7024927656

P.005/016

THE DEVELOPERS OF NEVADA (a limited liability company) SUBCONTRACT AGREEMENT

SUBDIVISION: DOVE CANYON - MODELS Forward TRADE: MASONRY - BLOCK WALLS THIS AGREEMENT, entered into this 2011 DAY of <u>APRIL 2001</u>, between THE DEVELOPERS OF <u>NEVADA</u>, A Limited Liability Comparity, hereinanter called "CONTRACTOR", THE DEVELOPERS OF NEVADA, hereinanter called "OWNER", and CHAMPION MASONRY, periodeter called "SUBCONTRACTOR".

WITNESSETH: In consideration of the sum herein agreed to be peld and the terms, conditions, and covenants to be by the parties kept and performed, it is agreed as follow

The Subcontractor shell furthsh all necessary labor, materials, tools, equipment, appliances, certificates, instructions, parts manuals, supplies and supervision necessary labor, materials, tools, equipment, appliances, certificates, instructions, parts manuals, supplies and supervision necessary labor, materials, tools, equipment, and shall perform his "Scope of Work" is strict compliance with the plane and specifications and all applicable local, state, and faderal codes and/or regulations and more particularly described in "Exhibit A", Exhibit "6" and Echibit "C" alloched hereio (hereinsfar called line "work"), for this cause project as strown on the plane and/or called for how particularly described in "Exhibit A", is a strown on the plane and/or called for how particularly described and any particular system and an applications, specifications, general caused for hime specifications, it avery understood end agrees that is has carefully awayined and understends this agreement and the store contract documents, has investigated the avert with it is to be performed, and that enters into the agreement and the sets of all party investigation, and available of all such transments, "hash be contracted accuments, has investigated the avert store of any two party parts and all and that enters into the agreement on the basis of all porty in made a state of party and the of the work and the contracts and difficulties under which it is to be performed, and that enters into the agreement and the basis of all porty made and understand that enters in the sets of a store transments in the sets of all parts and all applications and difficulties which the is to be performed and that enters in the sets of all parts. Any such contract which all is to be performed and that enters in the sets of all parts. Any such contract the formance of the such and the enters of any such contract of the formance of the store of any work weather the performance and the store of any such contract of performances and all parts and the store of

Owner agrees to pay Subcontractor for this work as detailed in "Exhibit 8" allached hereto, subject to additions and deductions for changes as may be agreed upon, provided that no payments were to be made unless Subcontractor's rate of progress, work done and material furnished are as therein agreed upon.
 PROJECT SCHEDULES: Time is of the assence and the Subcontractor ogrees to commence with work and adjust the made unless Subcontractor's rate of progress, work done and material furnished are as therein agreed upon.
 PROJECT SCHEDULES: Time is of the assence and the Subcontractor ogrees to commence with work and adjust the material subcontractor as a result to commence with work and adjust the project achedoic at as solid aborder and shall not be fable to Subcontractor or any costs incompt by Subcontractor as a result the text.
 The Subcontractor agrees that if higher Work (or materials delivered) is not completed the final completion date for delivery date), or Stored particles of the Work are not completed in succontractor may unstand or open type reason of such dates, inclusing without limitation, administrative and ownerses, interact, and atomative the amount of any such loss or damage contractor may unstand not occurred to reason of such dates, inclusing without limitation, administrative and ownerses, interact, and atomaty's these inclusively dates or payable by Contractor to any person of andly.

4. If the Subcontractor is delayed in completion of the Work or is making the Work schedule by reason of change orders or by weather conditions, sinks, lockouts, fire, or unavoidable casualities, or acts of Nakwa buyond the control of the Subcontractor, then the lime of completing may be estanded for such a period of time necessary to cover any or all of the necessary to the subcontractor any order to any order to any detection she order to all period and the subcontractor any enotinity on the necessary to cover any ore

5. Subcontractor variants and represents to Contractor and Owner that Subcontractor possesses vaid and current contractors formers covering all the work to be performed harounder. Subcontractor certifies that it has the necessary material under its control to be delivared to the job when required and a sufficient crew of qualitiest men to execute this subcontract property without cells. Subcontractor agrees to consolicate his debris daily at a place designated by Contractor. If Subcontractor fields to timely consolidate it debris, which failure creates a hazard or impedies the afficiency of over ranks, or at any such time cellers is descended to contractor to dear from the southeits walk of the project, it is agreed that Contractor shell have the right, but not the obligation, is do Subcontractor dearup work all cells and in such event. Subcontractor, and on such event.

Subcontractor specifically obligates itself to Contractor in the following manner:

- (A) For all matter's along, dready or indirectly, out of or in connection with the Warx and its performance by the subcontractor (including without finitetion acts or amissions by its employees, sperity, licensees, invites and contractes), and also withing out of any brave of the Subcontractor's agreement with Contractor, to the future texture advent permitted by Rw. Subcontractor groups to defend, incernity and save Contractors). The Owner and their enginees and architects and the employees and agents of the foregoing, hermites from and agents at other enginees. The advent texture are all costs and exponence baread (including without) initiation actives of the functions, the texture advent texture are all costs and exponence baread (including without) initiation and their enginees. The owner and their enginees and architects and the employees and agents in the texture (including without) initiation and their enginees. The owner and their enginees are all costs and exponence baread (including without) initiation attements (including without), such that initiation, auch claims is neural of failure to discover or naises out of neighbors or any one tooling, hermites for any other experime, loss or damage, whether consecuting, includent, whether with the texture), we approxed to the content of the contraction of bargitor or indirectly or indirectly or indirectly, by the active or passive neighbors of any indemnify or its equations of the vibration, and the enginees or contracted exact or the other with the solution or other oral, created in whother or not the content of the solution or the solution or other matter is sourced in whother or passive neighbors of any indemnify or indemnify the active or passive registrance. This indemnified part or is egents, employees or contracted exact or the indemnified part or indemnify the active or passive or equily damages covered by, any workers companiation active or the part of approxe is a within the active oregistrance and enginees and active damage damage and and anoth
- To pay for all materials furnished and work and labor performed under this subcantract, and to satisfy those contractors, individuals or entities thereupon, whenever demand is made to ins and, and that these contractors, individuals or entities and the premises contacting the project, shall be saved hermines from any and all claims, solts or time therefore by others and (B) Subcontractor,
- (C) All invoices for work completed under this contract must be submitted to THE DEVELOPERS OF NEVADA, is finited fieldity company, for Payment within 90 days of filing a Notice of Completion, Subcontractor waives all rights to receive payment for work completed.

7. Subcontractor shall maintain automobile and cosmercial general liability insurance for personal figury and property damage liability in the emount of One Million dolars (\$1,000,000) and worker's comparation insurance as required by law or by the specifications and shell aupply Contractor with the certificates of such insurance protecting both periles hereto, and shell name THE DEVELOPERS OF NEVADA, a limited liability company, the owner, and Lender and such other parties as THE DEVELOPERS OF NEVADA, a limited liability company, may reasonably designate an end/other the insurance to protect the specifications. berusoi leocilibbe a

By Upon Contractor's request. Subcontractor wik supply Contractor with its cost breakdown of all work to be performed by Subcontractor hereander (including work conserved by any change Todars) in such detail and form as Contractor may require. Contractor shall have that here to be done or in mice changes in work required by this Subcontractor and the place and specifications uncer which it is performed by starting, addition to addituding in addition. Subtractive and the place (rom the Contractor and Contractor in advances while subtractions) and the provide addition of all work to be applied by a subtraction and the place performed by Subcontractor within subtractions. Subtractive works are been agreed upon by Contractor in advance of performant one. If atra work is performed by Subcontractor without subtractions, while and the Contractor costs are advanced on the pay Subcontractor in advance within subtractive rate is with not contractor and contractor in advances within subtractive within subtractive cost advances to be deteroid on white the subtractor in advance within subtractive rate is sentenced on the pay and the place within subtractive and the place.

9. Any uncertainty of inconsistency in the pieces or specifications shell be brought to the extention of the contractor prior to proceeding with Subcontractor's work thereon and such uncertainty or inconsistency shall be resolved and performed as directed by Contractor. Nonperformance by reason of alleged defective work by uther Subcontractors, or trades will not be recognized unless prought to the attention of the Contractor prior to commencement of Subcontractor's work.

10. Should Subcontractor all any time ratuse or maginal to supply a sufficient encount of skilled worknees or materials of the proper quality or quantity, or fail in any respect to perform the work with comphases and dispense or in a good and workmanice manner, or cause by any action of omission the stoppage or datay of or interference with the work of Contractor, or of any other Subcontractor on the project, or fail in the performance of any of the agreements on its part contained haven, and should any such failure as canter action or inaction as outlined above continue for workny/for (24) contexcutor house alter racipit of writen network to the Subcontractor, epocitying the performance such failure or action or inaction, served personally, faxed, mailed or sent by telegram to the Subcontractor, Contractor, may:

- (A) Provide strough itself or through others, any such labor or materials necessary to perform the work well, in the sole judgment of the contractor, the deficiencies of the Subcontractor's work have been corrected, and dodoct the cost thereof from any money due, or thereaffer dimension to become due Subcontractor under the subcontract. If euch cust shall exceed any money due or thereaffer to become due the Contractor, the Subcontractor shall pay the difference to Contractor, or the Contractor may.
- (8) Terminate this subcontract, in which event Contractor shall be at iberty to artise on the premises and take possession, for the purpose of completing the work included in this subcontract, of all materials, tools and appliances that do the major ary other person or persons to finish the work, and to provide materials therefore, in case of such termination of emptyment, Subcontractor shall not be artificial to receive any writter payment under this subcontract. If the expense of finishing the work and experiment, in case of such termination of emptyment, Subcontractor shall not be artificial to receive any writter payment under this subcontract. If the expense of finishing the work and expense of universe of any dynamics, excess costs to other Subcontractors, legul fees or court costs incurred lincup) the default of the Subcontractor.

Please Initial

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Mr. 3/201

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12. If at any time, there shall be evidence of any tien or otain for which, it established. Contractor hight became lisble, and which is chargeable to Subcontractor, or if damage shall be cauced by subcontractor to other work, Contractor shall have the right to relain out of any payment tien due or thereafter to become due to Subcontractor, an amount sufficient to indumnity itself for any test or campo, inductive light evidence and other datameters and other datameters with its may be any to be any

13. Owner, st Owner's option, may issue checke payable (ainity to Subcontractor's employees and material suppliers. Upon receipt by Owner, of a Notice of Material Supplied (Pre Lien) by any supplier of Subcontractor, sit subsequent checks shall be issued joinity to Subcontractor and Supplier.

\*4. It is understood and agreed stat any payment made to Subcontractor shall not be deemed to be acceptance of any work or material. Payment by Owner to Subcontractor shall not welve any of Subcontractor's obligations created hereader.

15 Subcontractor hereby absolutely versarils all motarials and workmonship provided under this Subcontract for a portiod of one (1) year from homeowner close of excrow, or such longer period as may be provided for in the specifications and Homeowner close of excrow, or such longer period as may be provided for in the specifications and Homeowner close of excrow, or such longer period and acceptance of the Architect and Contractor. Should Subcontractor relates or register to prove and acceptance of the Architect and Contractor. Should Subcontractor relates or register to prove at the exone of the defective or rejected materials or workmanship, after receiving related in changes and acceptance of the Architect and Contractor. Should Subcontractor related or changes are used to changes at the exone of the Subcontractor, and Subcontractor agrees to pay investigative to constant and ensued thereof.

15. Subcontractor shell prevent the accurrence of any strike, slowdown or other labor difficulty or dispute arising out of the presence of Subcontractor on the job or the activities of the Subcontractor, shell prevent the accurrence of any strike, slowdown or other labor difficulty or dispute arising out of the presence of Subcontractor on the job or the activities of the Subcontractor, shell Subcontractor comply with the foregoing provision, and should such failure continue for twolvy four (2x) constantive hours after service of written notice of Subcontractor, requesting that Subcontractor comply with the foregoing provision, service and percentage or mains of one subcontractor. Contractor shell have the display the Subcontractor complexity the service of the requised as greeneent, to terminate this agreement or any pert thereof, or the employment of Subcontractor all or any portione, service of the verk lot take persenses of the previses and failth Subcontractor work by whatever means it may deem supplay. In the event of such a terminate out of which are notingallows of Contractor shall be dealered with a same out if this Subcontractor work by whatever means it may deem supplane 10.

17. With respect to any damage sustained by Contractor by reason of Subcontractor's treads of this Subcontract, and with respect to any costs, expenses, or other approachs owing by Subcontractor or Contractor pursuant to this Subcontractor. Contractor will be entited to deduct the same from any payments then or thereafter due to issuenting due to Subcontractor hereurider. If any damage, costs, expenses, claims or other amounts during by Subcontractor being by Subcontractor to this subcontract that the unput is back or during by Subcontractor there are same the unput is back or during by Subcontractor the same the same treat that exceed the contract price, Contractor shall be entitled to offset such excess against any funds in Contractor's possession beinging to or claimed by Subcontractor, or against any sums now or then due or becoming due Subcontractor from any sums now or then due or becoming due Subcontractor from any sums now or then due or becoming the Subcontractor's possession beinging to or claimed by Subcontractor. NOUTCE WITE:SOEVER.

15. Subcontractor agrees that the prevention of accidents to workman engaged upon, or in the vicinity of the work, is its responsibility. Subcontractor agrees to comply with all laws, ordinances, rules, reputations, codes, orders, notices and requirements concerning selety as shall be applicable to the work, and such solidional or special selety stendents are established during the progress of the work productator.

19. The Subcontractor agrees thet all work to be performed herearder, and all actions by or on bahalf of Subcontractor in our persuance thereof, shad comply with all tadarul, state, messapat and local laws, ordinances, rules, regulations, orders, cocide, standards, notices and requirements, including, but not limited to, those relating to discrimination in amployment, tak employment precises or dynatoperturbury. The Subcontractor agrees to Jawh harmans and indexinating to discrimination in amployment, tak employment and specifies or dynatoperturbury. The Subcontractor agrees to Jawh harmans and indexinate it loss, lawy, claims, proceedings, flabitly, domages, findes, penalties, and and separate the state of the second second

20. This Subcontract takes proceedence over and superviseder any and all proposels, correspondence and orei agreements and prior to the dole hereof. There are no agreements or representations except these contained in writing herein, and this contract may not be abared or amended except in writing signed by both parties herets. This subcontract, or the monies becoming cue nereander, shall not be assigned in whote or in part, voluntarily writing the written permission of the Contractor first obtained. Any such assignment subcontract, from its durit to Contractor to discharge its obligation and taket and taket and taket and taket and taket and subject and taket assignment subject to all rights of Contractor to discharge its obligation and taket and taket and taket and taket.

21. The waiver by Contractor of a breach of any term, covenant or condition contained in this subcontract shell not be treated as continuing waiver of such term, covenant, or condition or as a waiver of a luture preach of the same of any other terms, powerant or condition contained in this subcontract. All rights and rainedies of Contractor haranteer shall be cumulative, and are in addition be, and not in derogation of, at other rights and ramedias available to the Contractor. All such rights and remedies may be associated by Contractor either successively or concurrently.

12. In the event either party bareto shall prevail in any legal or equilable actors to enforce any of the target of fully subcontract, such party shall be entitled to receive from the other party all court costs, a reasonable sum as atomaty's fees and all other expenses incurred in such lifeption and the preparation thereof. If Subcontractor shall bring at action against Contractor, the location of the properties of Contractor, and if such action is estimated as a sub-active day against contractor of the properties of contractor's election, be entered as a sub-active of the parties for change of vanue to Clark County.

53 It is understood and acreed that time is of the essence.

The words 'he', "she', 'his', 'hers', 'it', and 'its', shall be deemed substituted wherever appropriate to deembe the contracting entity or person. 24

25. All building permits and inspection fees will be paid by Contractor. Subcontractor is solely responsible for fees and permits that apply to their sub-trade as regulated by each building subcontractor's work, then the cost of such reinspection, recentification is required due to the ladure of Subcontractor's work, then the cost of such reinspection, reteating, or recentification static be pold by Subcontractor.

26. The terms and conditions of the exterior. "Exhibit A", "Exhibit B", and Exhibit "C" are expressly incorporated herein by this reference. In the event of a conflict between document and "Exhibit B", the terms and conditions of this document shall control.

27.

This contract is not binding until executed by dust signatures of THE DEVELOPERS OF NEVADA, a Limited Liability Company and Subcontractor. Subcontractor, by practing his initials here (\_\_\_\_\_\_\_), hereby acknowledges that he has read and understands all of the provisions of this s ), hereby acknowledges that he has read and understands all of the provisions of this subcontract agreement. 28

CHAMPION MASONRY B τm 5-8-0 DATE:

License # 0039677

1,000,000 License Limit: <u>\$100,000,0</u>00

"THE FEVEL OPERS OF NEVADA (A Limited Lisbility Company) BY: Sec.1 Vice President of Construction TITLE فت ا DATE RY TITLE Director of Purchasing OEVELOPERS LICENSE #0036777 (UNLIMITED) OATE

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(FAX)7024927656

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DOVE CANYON

## EXHIBIT "A"

## 1. DOCUMENTS

All work shall be in accordance with the following documents;

(A) Developers instructions to bidders

(B) Developers General Information
(C) General Conditions (A.I.A Homes Plan A201, 1976 edition)
(D) Architectural drawings prepared by L G S Nevada, Structural and Post Tension drawings prepared by Wright. Engineering, Inc.

(E) Improvement plans prepared by Alpha Engineering.(F) Plumbing and mechanical plans by Comfort Engineering.

| SHEET INDEX                            | PROJECT     | SHEET       | <b>REVISION DATE</b> |
|--|-------------|-------------|----------------------|
| Coversheet                             | Dove Canyon | GN-1 = GN-3 | 4/28/00              |
| PLAN 1                                 |             |             |                      |
| Surface Plan                           | Dove Canyon | A I-1       | 4/28/00              |
| Floor Plan                             | Dove Canyon | A1-2        | 4/28/00              |
| Framing Sections                       | Dove Canyon | A1-3        | 4/28/00              |
| Roof Plan & Exterior Elevations        | Dove Canyon | A1-4-A1-5   | 4/28/00              |
| Interior Elevations & Finish Schedules | Dove Canyon | A1-6        | 4/28/00              |
| Electrical Plan                        | Dove Canyon | A1-7        | 4/28/00              |
| PLAN 2                                 | r.          |             |                      |
| Surface Plan                           | Dove Canyon | A2-1        | 4/28/00              |
| Floor Plan                             | Dove Canyon | A2-2        | 4/2.8/00             |
| Framing Sections                       | Dove Canyon | A2-3        | 4/28/00              |
| Roof Plan & Exterior Elevations        | Dove Canyon | A2-4 - A2-5 | 4/28/00              |
| Interior Elevations & Finish Schedules | Dove Canyon | A2-6        | 4/28/00              |
| Electrical Plan                        | Dove Canyon | A2-7        | 4/28/00              |
| PLAN 3                                 |             |             |                      |
| Surface Plan                           | Dove Canyon | A3-1        | 4/28/00              |
| Floor Plan                             | Dove Canyon | A3-2        | 4/28/00              |
| Framing Sections                       | Dove Canyon | A3-3        | 4/28/00              |
| Roof Plan & Exterior Elevations        | Dove Canyon | A3-4 - A3-5 | 4/28/00              |
| Interior Elevations & Finish Schedules | Dove Canyon | A3-6        | 4/28/00              |
| Electrical Plan                        | Dove Canyon | A3-7        | 4/28/00              |
| PLAN 4                                 |             |             |                      |
| Surface Plan                           | Dove Canyon | A4-1        | 4/28/00              |
| Fluer Plan                             | Dovo Canyon | A4-2        | 4/28/00              |
| Framing Sections                       | Dove Canyon | A4-3        | 4/28/00              |
| Roof Plan & Exterior Elevations        | Dove Canyon | A4-4 - A4-5 | 4/28/00              |
| Interior Elevations & Finish Schedules | Dove Canyon | 入4-6        | 4/28/00              |
| Electrical Plan                        | Dove Canyon | A4-7        | 4/28/00              |
| PLAN 5                                 |             |             |                      |
| Surface Plan                           | Dove Canyon | A.5-1       | 4/28/00              |
| Floor Plan                             | Dove Canyon | A5-2        | 4/28/00              |
| Framing Sections                       | Dove Canyon | A.5-3       | 4/28/00              |
| Roof Plan & Exterior Elevations        | Dove Canyon | AS-4 AS-5   | 4/28/00              |
| Interior Elevations & Finish Schedules | Dove Canyon | A5-6        | 4/28/00              |
| Electrical Plan                        | Dove Canyon | A5-7        | 4/28/00              |

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| PLAN 6                                 |             |               |                 |
|--|-------------|---------------|-----------------|
| Surface Plan                           | Dove Canyon | A6-1          | 4/28/00         |
| Floor Plan                             | Dove Canyon | A6-2          | 4/28/00         |
| Framing Sections                       | Dove Canyon | A6-3          | 4/28/00         |
| Roof Plan & Exterior Elevations        | Dove Canyon | A6-4 - A6-5   | 4/28/00         |
| Interior Elevations & Finish Schedules | Dove Canyon | A6-6          | 4/28/00         |
| Electrical Plan                        | Dove Canyon | A6-7          | 4/28/00         |
| Architeotural Details                  | Dove Canyon | AD-1-AD-2     | 4/28/00         |
| Structural Notes                       | Dove Canyon | SO.1          | 7/11/00         |
| PT Foundation Plan-Plan 1              | Dove Canyon | \$1.1         | 7/11/00         |
| Roof Framing Plan-Plan 1               | Dove Canyon | \$1.2         | 7/11/00         |
| Pf Foundation Plan-Plan 2              | Dove Canyon | \$2.1         | 7/11/00         |
| Roof Froming Plan-Plan 2               | Dove Canyon | \$2.2         | 7/11/00         |
| Roof Framing Plan-Plan 2 Options       | Dove Canyon | \$2.3         | 7/11/00         |
| PT Foundation Plan-Plan 3              | Dove Canyon | 53.1          | 7/11/00         |
| Fluor and Roof Framing Plan-Plan 3     | Dove Canyon | \$3.2         | 7/11/00         |
| PT Foundation Plan-Plan 4              | Dove Canyon | \$4.1         | 7/11/00         |
| Floor and Roof Framing Plan-Plan 4     | Dove Canyon | 84.2.         | 7/11/00         |
| PT Foundation Plan-Plan 5              | Dove Canyon | \$5.1         | 7/11/00         |
| Ploor and Roof Framing Plan-Plan 5     | Dove Canyon | \$5.2.        | 7/11/00         |
| PT Foundation Plan-Plan 6              | Dove Canyon | S6.1          | 7/12/00         |
| Framing Plan-Plan 6                    | Dove Canyon | \$6.2.        | 7/12/00         |
| PT Foundation Details                  | Dove Canyon | \$7.1         | 1/14/00         |
| Framing Details                        | Dove Canyon | \$7.2 - \$7.3 | 1/14/00-7/12/00 |
| Mechanical Plan-Plan 1                 | Dove Canyon | M-1           | 2/02/00         |
| Mechanical Plan-Plan 2                 | Dove Canyon | M-2           | 7/21/00         |
| Mechanical Plan-Plan 3                 | Dove Canyon | M-3           | 2/02/00         |
| Mechanical Plan-Plan 4                 | Dove Canyon | A             | 7/21/00         |
| Mechanical Plan-Plan 5                 | Dove Canyon | M-5           | 7/21/00         |
| Mechanical Plan-Plan 6                 | Dove Canyon | M-6           | 7/21/00         |
| Plumbing Plan-Plan 1                   | Dove Canyon | P-1           | 2/02/00         |
| Plumbing Plan-Plan 2                   | Dove Canyon | P-2           | 2/02/00         |
| Plumbing Plan-Plan 3                   | Dove Canyon | P-3           | 2/02/00         |
| Plumbing Plan-Plan 4                   | Dove Canyon | P-4           | 2/02/00         |
| Plumbing Plan-Plan 5                   | Dove Canyon | P-5           | 7/21/00         |
| Plumbing Plan-Plan 6                   | Dove Canyon | P-6           | 7/21/00         |

Any conflict between the plans, specifications and any codes, ordinances and legislative acts, shall be resolved in the following order of priority:

1. Codes, ordinances and legislative acts

2. Subcontract Agreement

- 3. Specifications, scope of work and change orders
- 4. Plans

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## 2. TRADE: MASONRY - BLOCK WALLS

Subcontractor shall perform all work as outlined in "Subcontract Agreement", Exhibit "A" & "B". Subcontractor shall work only at those lots and at such times specifically designated by Contractor by issuance of Contract . P.O. Billing Reports.

SUBCONTRACTOR: CHAMPION MASONRY 3100 MEADE AVENUE LAS VEGAS, NEVADA 89102 PH# (702) 648-4884, FAX# (702) 648-7230 CONTACT: LUKEY CORRAL LICENSE #: #0039677 LICENSE LIMIT: \$105,000,000 1,000,000 FEDERAL TAX LD. #88-0323576

3. SUPPLIERS

Materials Out of Paid Stock

Any changes of suppliers from those listed above will be reported in writing to the Contractor within 48 hours prior to delivery of any material from any supplier not listed above.

## 4. TERM OF SUBCONTRACT

- (A) Contract pricing to be effective starting with Models Forward and will remain valid through units for which Contract P.O. Billing Reports are issued to the subcontractor. At such time when Contract P.O. Billing Reports are <u>not</u> issued to the subcontractor, all previous contractual obligations will remain in place and shall include the homes previously started or finished for which the Contract P.O. Billing Reports were issued.
- (B) Subcontractor agrees, that without liability for the remainder of the parties' Contract, Contractor may terminate the same either (a) prior to the date that Subcontractor has provided materials, or (b) upon Subcontractor's completion of contract deliveries on any phase or sequence.

Contractor shall then solely be liable to pay Subcontractor an equitable sum equal to the proportionate value of labor, services, and materials provided and delivered to job site by Subcontractor prior to the date of termination based upon the total contract prices.

In the event Subcontractor should breach any of the terms of this contract, Contractor may declare such breach and properly terminate this contract by written notice thereof, without any further liability therefor, and shall be entitled to recover from Subcontractor such direct and consequential costs and damages as are incurred by Contractor in covering and completing the contracted performance.

(C) Subcontractor agrees that any proposed change in price shall be given to contractor in written form thirty (30) days prior to the expiration of the July 1, 2000, price lock or the commencement of frenching on any phase. Otherwise Subcontractor is contractually obligated and shall perform work as per prices herein.

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5. PAYMENT SCHEDULE

- (A) Owner agrees to pay Subcontractor for the work performed pursuant to this agreement and any additions or deletions, which are agreed to in the manner, provided herein. Application for payment shall be made as per attached Pricing Schedule in "Exhibit B" and Subcontractor Agreement. If in the judgment of Owner any invoice and supporting documents do not correspond or comply with the requirements for payments, the invoice shall be returned to the Subcontractor for corrections and resubmitted for payment with the next pay cycle request.
- (B) Subcontractor billings shall be submitted with signed and dated Contract P.O. Billing Reports and appropriate material and labor releases shall accompany all submittals. Standard contract work must be billed separately from options or extras. Subcontractor billings shall be submitted with one or more of the following:
  - 1. A copy of the "Contract P.O. Billing Report" for contract work with appropriate amounts circled designating materials delivered as of billing date.
  - A Developers' fax copy of variance purchase orders for miscellaneous non-contract work or for optional work as designated in contract; and/or
  - 3. A copy of a Developers' Option P.O. Report for optional work as designated in the contract, fully executed with pricing, which must be signed by the Superintendent before submittal.
- (C) Should it be become necessary to include any additions or deletions to the Scope of Work, Subcontractor shall be issued a Subcontract Change Order which will re-adjust the contract accordingly. Subcontractor shall be paid for properly executed invoices approximately 30 days after submittal. Checks shall be issued jointly with all Subcontractors whose suppliers have submitted preliminary notices.

### ACCEPTED:

CHAMPION MASONRY

BY TITLE: 5-8-0 DATE:

THE DEVELOPERS OF NEVADA,

TITLE: Vice President of Construction

DATE BY TITLE: Dir urchasing

DATE

DNV 001487

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EXHIBIT "B"

### **PAYMENT SCHEDULE**

THIS SUBCONTRACTOR is contracted for service under the attached Subcontractor Agreement. Subcontractor is to perform outlined work at the below listed prices and payment schedule:

| PROJECT:  | DOVE CANYON N     | MODELS FORWAR | Ð                   |  |
|---|-------------------|---------------|---------------------|--|
| SUBCONTRACTOR:                                      | CHAMPION MASO     | NRY           |                     |  |
| TRADE:  | MASONRY - BLOC    | CK WALLS      | ,                   |  |
| CONTRACT DATE:                                      | April 20, 2001    |               |                     |  |
| BROWN OR TAN BLOCK<br>MORTER (4500 P.S.L)           | W/COLORED         | $\leftarrow$  |                     |  |
| ,   |                   | SMOOTH        | SPLIT               |  |
| 10 Course Wall (6-8-16 TG)<br>(1 Course Solid Grow) |                   | 27.50 LF      | 31.50 LF            |  |
| 9 Course Wall (6-8-16 TG) No Footing                |                   | 20.00 LF      | 24.00 LF            |  |
| Extra Course/Flat Cap (6" Block)                    |                   | 2.40 LF       | 2.75 LF             |  |
| Extra Course/Flat Cap (8" Block)                    |                   | 3.25 LP       | 3.75 LF             |  |
|   |                   |               |                     |  |
| RETAINING WALLS (Leve                               | el Backfill Only) |               |                     |  |
| 2 Course  |                   | 16.50 LF      | 18.25 LF            |  |
| 3 Course  |                   | 19.50 LF      | 22.00 LF            |  |
| 4 Course  |                   | 26.65 LF      | 30.00 LF            |  |
| 5 Course  |                   | 32.00 LF      | 36.25 LF            |  |
| 6 Course  |                   | 38.00 LF      | 43.00 LF            |  |
| 7 Course  |                   | 45.50 LF      | 51.35 LF            |  |
| 8 Course  |                   | 53.30 LF      | 60.00 LF            |  |
| 9 Course  |                   | 65.00 LF      | 74.00 LF<br>1.50 SF |  |
| Thoroseal   |                   | 1.50 SF       | 1.50.51             |  |

Does an include North Las Vegas

PRICES TO REMAIN IN EFFECT (FOR ALL HOUSES RELEASED FOR CONSTRUCTION) UNTIL DECEMBER 31, 2001.

Quantities to be field verified prior to payment.

Please Initial

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**ISIC 3770** 

## Case 2:15-cv-00460-JAD-PAL Document 44-4 Filed 09/19/16 Page 9 of 13

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05/31/2013 08:31 Dove Canyon

(FAX)7024927656

P.012/016

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EXHIBIT C

DOVE CANYON MODELS FORWARD LAS VEGAS, NEVADA

SUBCONTRACTOR AGREEMENT BETWEEN THE DEVELOPERS OF NEVADA, A Limited Liability Company, HEREIN CALLED CONTRACTOR, AND <u>CHAMPION</u> <u>MASONRY</u>, HEREIN CALLED SUBCONTRACTOR FOR THE CONTRACT.

> SCOPE OF WORK MASONRY - BLOCK WALLS

- 1. DESCRIPTION OF WORK
  - 1.1 This is a general description of the work to be performed and the methods to use under this contract. Any items not specifically described which would normally be considered a part of this work, shall be so interpreted.
  - 1.2 It is understood that this scope shall include those items pertaining to this contract as shown on the plans and described in the specifications as well as itemized in the contract attached.
  - All work shall be performed in accordance with City of Las Vegas Specifications Civil Plans, prepared by 557 Inc. the geotechnical exploration report.
    - 1.3.1 Civil Plans: Estime dated 2/25/98 Pacet 5, Units 1: 1.3.2 Description of the dated 2/25/98 Pacet 5, Units 1: 1.3.2 Descripti

1.3.3

- 2. QUALITY ASSURANCE
  - 2.1 The Subcontractor agrees to perform the work in an efficient, good and workmanlike manner, to comply with the latest rules and regulations of the 1997 Uniform Building Code and other applicable national, state and local laws and government agency regulations.
  - 2.2 Perform work according to the standard custom and practice of the trade so that it will meet all Federal Housing Administration, Veterans Administration, Housing Urban Development Administration and/or Federal National Mortgage Association minimum standards.

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# Case 2:15-cv-00460-JAD-PAL Document 44-4 Filed 09/19/16 Page 10 of 13

| (Page 13 of 16) |            |  |  |   |           |
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| 05/31/2013      | 08:32 Dove | Canyon                                     |  | (FAX)7024927656   | P.013/016 |
|                 |            |  |  |   |           |
|                 |            |  | year.  | 11. mar.  |           |
|                 | 2.3        | Comply                                     | with federal, state and local safety orders  | 3.  |           |
|                 | 2.1        | that it is<br>handlin;<br>s <b>afety</b> d | tractor acknowledges use of typical mater<br>the Subcontractor's responsibility to take<br>g materials or working in areas that pose (<br>inta sheets (MSDS) must be filed with C<br>account of work.                    | e preventative action when<br>potential hazards. Material   |           |
|                 | 2.5        | All war                                    | ranties to begin upon delivery to final use  | <del>،</del>  |           |
| З.              | MATE       | RIALS                                      |  |   |           |
|                 | 3.1        |  | all materials and labor to install retaining<br>d walls and returns as required,   | 3 walls, perimeter wall, block  |           |
|                 | 3.2        | Rear pr                                    | operty line walls tan smooth.  |   |           |
|                 | 3.3        | Side ya<br>błock.                          | rd walls to constructed with tan smooth b  | lock. Return walls to be tan split  |           |
|                 | 3.3        |  | conry construction shall conform to the 19   |   |           |
|                 | 3.4        | Perime                                     | er walls -9 course tan 501.1+  | nso 8 n 8 x 16 militarental alp   | M         |
|                 | 3.5        | street a                                   | otherwise specified, materials and install<br>coordance with the manufacturers recomm<br>ds. Substitutions must be approved in wr<br>nance.  | nendations and industry   | / 3       |
|                 | 3.6        | Retaini                                    | ng walls to be tan smooth block.   |   |           |
|                 | 3.7        | Mason                                      | ry units, mortar, grout and steel reinforcin   | g.  |           |
|                 |            | 3.7.1                                      | Masonry units shall be normal weight or<br>standards 21-3 and 21-4. Testing per A  | r lightweight Grade N per UBC<br>STM C140 and C426.   |           |
|                 |            | 3.7.2                                      | Mortar shall be type S.  |   | ÷         |
|                 |            | 3.7.3                                      | Grout shall be type S and achieve a com 2000 psi.  | pressive strength of not less than  |           |
|                 |            | 3.7.4                                      | Reinforcing steel shall be new billet stee<br>ASTM A615, Grade 60, with a minimum<br>Reinforcing bars shall be clean and free<br>will reduce bond. Size shall be in accorr<br>jurisdiction specifications or building co | n yield strength of 60 KSI.<br>from rust, scale or coating that<br>dance with plan details, local |           |
|                 |            | 3,7.5                                      | The wire shall be annealed stool wire, co<br>per ASTM A82.   | ld drawn, minimum 18 gauge as   |           |
|                 |            |  |  | PLEASE INITIAL  | -         |
|                 |            |  |  |   |           |

**ISIC 3772** 

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3.7.6 Horizontal "ladder" type reinforcing shall be standard 9 gauge rods, per ASTM A82, galvanized per ASTM A116, class 1 for exterior wall applications, painted for interior wall. Horizontal reinforcing shall be manufactured by Dur-O-Wall or equal.

### 4. INSTALLATION

- 4.1 Subcontractor is responsible for verifying locations and elevations on all existing utilities prior to any construction. Call before you dig a minimum of two full working days prior to excavation.
- 4.2 All excess grout, block and pallets shall be hauled away by subcontractor.
- 4.3 Subcontractor shall provide all necessary permits and coordinate all inspections with the local public agency and contractor's superintendent.
- 4.4 Decorative weep blocks shall be installed at proper elevations on each side of units return walls, corner lots shall receive two decorative weep blocks at the side.
- 4.5 Subcontractor shall be responsible for the care, maintenance and repair or replacement of existing improvements of the work area, which have been removed or damaged during the course of construction. All repairs, replacements or clean up shall be done to the satisfaction of the contractor.
- 4.6 Omissions or conflicts of the drawing notes and details shall be brought to the attention of the contractor and resolved before proceeding with the work.
- 4.7 Joints on exposed masoury shall be raked to a depth of 3/8" unless other wise noted on plans or specs.
- 4.8 All work shall be performed in a neat workmanlike manner and in the best practice of the trade. Extreme care shall be taken to prevent mortar splotches on exposed masonry walls, exposed concrete, window frames and glass. Embedded anchors for optional ornamental iron gates or panels shall be located in strict acceptance with detail drawings.
- 4.9 Fence wall control joints shall be in accordance with plan details and/or building code requirements.
- 4.10 Water repellent shall be applied on clear dry masonry surfaces with coating to be in strict accordance with manufacturer's recommendations. Areas to be coated will be as per plan details, Field Coordinator and at the direction of contractor's site superintendent.

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**ISIC 3773** 

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|                 |                   |   | -               |           |

#### 5. QUALITY CONTROL

- 51 Subcontractor shall construct block walls plumb and true.
- 5.2 During the one year subcontractor's warranty, a period of 48 hours after notification by Contractor's Customer Service Department will be allowed for response and corrective action. After this 48 hour period, the problem will be corrected by Contractor and the Subcontractor shall be back-charged for all costs incurred to correct the problem.
- 5.3 Emergencies shall be corrected by Subcontractor immediately. Subcontractor must provide Contractor with his 24 hour phone number where the Subcontractor Can be reached in case of emergencies.
- 5.4 Subcontractor shall be responsible for the protection of his work from damage by elements and or vaudalism until the concrete has set. Subcontractors shall provide at their expense, such as flashers, barricades or signs as necessary to prevent damage to work and or public safety.

#### 6. CLEANING

- Subcontractor shall be responsible for the cleanup and removal of all sacks, 6.1 boxes, pallets, waste, and other dobris resulting from his work as directed by the Contractor's representative and within 24 hours after Subcontractors completion of his work, have picked up all usable materials of his operation, moved them forward to new houses or moved them out of the way.
- Clean all concrete from anchor bolt threads. 6.2
- Wash out of concrete trucks shall be done only in areas as designated by job 6.3 superintendent.

#### SCHEDULE OF WORK PERFORMED 7.

- It is understood that the Subcontractor shall adhere to a production schedule 7.1 established by Contractor's superintendent and agreed upon by Subcontractor.
- At the minimum, the Subcontractor shall meet the appropriate weekly 7.2 requirements as outlined in the weekly construction schedule.
- 7.3 Failure on the part of the subcontractor to replace defective material or correct faulty workmanship or to maintain the minimum daily rate of production after 48 hour notice of said failure for any reason except for acts of god, war, or other circumstances beyond the control of subcontractor will result in either removal of subcontractor from the job site or to assess liquidated damages until problem is corrected.

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P.016/016

7.3.1 Removing subcontractor from the job site will allow The Developers of Nevada, A Limited Liability Company to employ another subcontractor to complete required work. Any and all differences in cost resulting from a change in subcontractors shall be borne by this subcontractor.

- 7.3.2 The said 48 hour notice shall be given only in writing, only on a business day (no weakends, legal holidays) and said notice shall commence as of the time of the faxing and or depositing in the United States mail by contractor, said notice to subcontractor at the last known address of subcontractor or at the time of personal delivery of said notice to subcontractor.
- 7.3.3 Liquidated damages may be assessed for all scheduled days not met at a rate of \$5000 for day per house to be deducted from contract price. Solo 00 fo Acmein in effect, Mike Sixfood Every effort will be made by The Developer of Nevada to cooperate with
- 7.4 Every effort will be made by The Developer of Nevada to cooperate with subcontractor as to the daily schedule. Subcontractor must inform job site superintendent of any circumstances that may arise to cause delays prior to them occurring.

ACCEPTED:

DATE:

BY: Alder l TITLE: Phesident

CHAMPION MASONRY

DEVELOPERS OF EVADA, A bimited Liability, Company BY: TITLE: Vice President of Construction

DATE: BY

TITLE: Director of DATE:

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**ISIC 3775** 

# EXHIBIT 110

Construction Defect Class Action Complaint filed on January 5, 2012, in Clark County District Court, Nevada, in the action captioned *Marcel v. The Developers of Nevada, LLC*, Case No. A-12-654209-D ("*Marcel* action") (ISIC 3738-3751)

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| (Page | 50 | 20 | 69) |  |
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|   | Electronically Filed<br>01/05/2012 07:14:50 AM       |
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|   |  |
| COMPC   | Alun & Elemen  |
| Duane E, Shinnick, Esq.<br>Bar No. 7176   | CLERK OF THE COURT                                   |
| Eric Ransavage, Esq.<br>Bar No. 8876  |  |
| Bradley S. Rosenberg, Esq.<br>Bar No. 8737  |  |
| SHINNICK RYAN & RANSAVAGE P.C.  |  |
| 2881 Business Park Court, Suite 210<br>Las Vegas, NV 89128                              |  |
| Tel. (702) 631-8014<br>Fax (702) 631-8024   |  |
| eransavage@ssllplaw.com   |  |
| Attorneys for Plaintiffs  |  |
|   |  |
| DISTR   | ICT COURT  |
| CLARK CO  | UNTY, NEVADA   |
|   |  |
| NOVEA G. MARCEL, individually; and the<br>same on behalf of themselves and on behalf of | } CASE NO. A- 12- 654209- D                          |
| others similarly situated, and ROES 1-600,  | DEPT. NO. XVI  |
| inclusive<br>Plaintiffs,  | ARBITRATION EXEMPTION CLAIMED:                       |
| v.  | ) Class Action                                       |
| THE DEVELOPERS OF NEVADA, LLC., a   | ) CONSTRUCTION DEFECT<br>) CLASS ACTION COMPLAINT    |
| Nevada Limited-Liability Company; and DOES  | {  |
| 1 through 500, inclusive,   | {  |
| Defendants.   | {  |
| COMPLAI   | INT FOR DAMAGES                                      |
| Comes Now Plaintiff NOVEA G MARC  | EL, individually, and the same on behalf of themsel  |
|   |  |
|   | einafter "Plaintiffs"), by and through their attorne |
| Duane E. Shinnick, Esq., Eric Ransavage, Esq.   | and Bradley S. Rosenberg, Esq. of the law firm       |
| SHINNICK, RYAN & RANSAVAGE P.C., and  | I for causes of action against Defendants, and cach  |
| them, allege and complain as follows:   |  |
| {00099690,DOC}  |  |
|   | 1<br>IT FOR DAMAGES                                  |

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| GENERAL ALLEGATIONS |
|---------------------|
|---------------------|

2 1. Plaintiffs are owners of individual residences within the housing developments known as 3 DOVE CANYON, in North Las Vegas, Nevada, more specifically described as residences in the 4 subdivision of DOVE CANYON UNIT 1; DOVE CANYON UNIT 2; DOVE CANYON UNIT 3; 5 DOVE CANYON UNIT 4; DOVE CANYON UNIT 5; as recorded with the Clark County Recorder 6 2 in Plat Book 95, page 83; Plat Book 98, page 86; Plat Book 106, page 50; Plat Book 103, page 42; 8 Plat Book 101, page 10; and the materials and workmanship of their residences are substantially the 9 same as the other 137 residences at the DOVE CANYON development. 10

Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages
 suffered by each unit owner as to their separate interests as delineated by law.

2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice
 on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board
 records, or at their last known addresses. Plaintiffs have substantially complied with the notice and
 pre-filing requirements of NRS 40.645.

3. The property and buildings thereupon will hereinafter sometimes be referred to as the
 "subject property."

4. A class action is alleged pursuant to Nevada Rules of Civil Procedure Rule 23. The class
 consists of all owners of the subject property. Class Representative Plaintiffs bring this action as a
 class action, as representatives of all individuals who own one or more single family homes at the
 subject property in Clark County, Nevada.

 a) Plaintiffs allege that the class, consisting of the owners of approximately 137 units, is so numerous that joinder of all homeowners individually would be impractical and that disposition of their claims in a representative suit is a benefit to the court.

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2 COMPLAINT FOR DAMAGES

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| b)             | Plaintiffs have a well defined community of interest or questions of fact and la        |
|----------------|---|
|                | common to each member of the class in that all members of the class have suffer         |
|                | injuries due to construction defects, the related stigma, diminution in value, lost ren |
|                | and personal property damage, as a result of expansive soils and other defects, releva  |
|                | causes, and the claims herein alleged by Plaintiffs are representative of those clair   |
|                | which could be alleged by such members of the class.                                    |
| c)             | Plaintiffs allege that the relief herein sought is typical of the relief which could    |
|                | sought by each of the class members.  |
| d)             | Plaintiffs allege that questions of law and fact common to the class predominate ov     |
|                | questions affecting the individual class members, and that the interest of justice and  |
|                | efficiency will be best served by bringing this action as a class action with regard    |
|                | the aforementioned interests.   |
| c)             | Plaintiffs allege that the prosecution of separate actions by individual members of t   |
|                | class would create a risk of inconsistent or varying adjudications with respect to the  |
|                | individual members of the class which would establish incompatible standards            |
|                | conduct by the parties opposing the class, and adjudication with respect to individu    |
|                | members of the class would be dispositive of the interest of other members not parti    |
|                | to the adjudication, or would substantially impair or impeded their ability to prote    |
|                | their interests.  |
| Ð              | The Class Representative Plaintiff's have typical claims as the members of the cla      |
|                | and were damaged by the acts and practices of the Defendants. They will fairly an       |
|                | adequately protect the interest of the class, as each is an owner of real property with |
|                | the affected area identified below, and each was damaged by the acts and practices      |
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3 Defendants, and each of them. Class Representative Plaintiffs have no conflicts with 2 the other homeowners of the subject property single family homes, with respect to the 3 claims alleged and have retained competent and experienced counsel to represent 4 them. 5 The members of the class are easily located and identified as all individual 6 g) 7 homeowners at the subject property. The names and addresses of the individuals who B own single family homes at the subject property are maintained as public records. 9 There is no plain, speedy, or adequate remedy other than maintenance of this class 10 action. Consequently, there would be a failure of justice and efficiency, but for the 11 12 maintenance of this class action. 13 5. The Defendants are identified as follows: Plaintiffs allege that Defendant THE 14 DEVELOPERS OF NEVADA, LLC., a Nevada Limited-Liability Company, authorized to do 15 business in the State of Nevada and has conducted and/or now does conduct business within the 1.6 County of Clark, State of Nevada, including but not limited to development, construction, 17 18 improvement, conversion and/or sale of the subject property. 1.9 Plaintiffs allege that at all times herein mentioned, Defendants, and cach of them, were the 20 agents, servants and employees of each other and were acting in the course and scope of their agency 21 or employment in doing the acts herein alleged. 22 7. Plaintiffs do not know the true names and capacities of defendants such herein as Does 1 to 23 24 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed 25 and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in 26 some manner for the defective and negligent engineering, architecture, construction, supply of 27 improper materials, and inspection of the subject property single family homes, or in some other 28 (00099690.DOC] 4 COMPLAINT FOR DAMAGES

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actionable manner were an integral part of the chain of development, construction and marketing of the subject property single family homes, and that Plaintiffs damages as herein alleged were proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true names and capacities of such defendants are ascertained.

6 8. Defendants Does 1 through 500, inclusive, whether individual, corporate, associate or 7 otherwise are fictitious names of defendants whose true names and capacities, at this time, are 8 unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times 9 herein mentioned each of the defendants sued herein as Does 1 through 500 was the agent, servant 10 and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in 11 12 the scope of his or her authority as such agent, servant and employee, and with the permission and 13 consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an 14 agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on 15 the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter 16 alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave 17 18 of this Court to amend this Complaint to insert said true names and capacities.

9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes of limitations that the subject property has and is experiencing defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.

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It was the result of the representations by Defendants that they would repair the defects and their conduct in so performing some works of repair, as well their proposals for correcting the defects that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit

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5 COMPLAINT FOR DAMAGES (Page 6 of 14)

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against said Defendants. By virtue of the fact that Defendants were the developers, contractors and 1 2 sellers of the subject property and aware of the particular nature of the project, including its design, 3 composition, and component parts, and when said Defendants represented that Defendants would 4 repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in 5 relying on said representations and conduct by said Defendants in permitting them to investigate and 6 7 repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action 8 against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 11.190. 9 On numerous occasions Defendants represented to Plaintiffs that the defective systems and 10 materials were not inadequate, and that repairs had been successfully performed thereby inducing 11 reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore, 12 13 Defendants are estopped from asserting any potentially applicable statutes of limitations. Damage 14 has also occurred at various times in the past, including progressive damage. 15 10. Within the last year, Plaintiffs have discovered that the subject property has and is 1.6 experiencing additional defective conditions, in particular, there are damages stemming from, among 17 other items, defectively built roofs, leaking windows, dirt coming through windows, drywall 18 1.0 cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and 20 other poor workmanship. 21 FIRST CAUSE OF ACTION 22 (Breach of Contract and Breach of Express Warranties as Against 23 24 All Defendants and Does 1 through 400) 25 11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint 26 as though fully set forth herein. 27 28 (00099690.DOC) 6 COMPLAINT FOR DAMAGES

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12. On or about various dates commencing in 2002, and continuing thereafter in the County 2 of Clark, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered 3 into contracts in writing with Defendants for the purchase from said Defendants of one or more of the 4 units in the subject property. 5 13. At the time of negotiations of said contracts, but before said contracts were executed 6 between the Plaintiffs and/or their predecessors in interest and said Defendants, as an inducement to 8 the Plaintiffs and/or their predecessors in interest to purchase said units, and as a part of the basis of 9 the bargain of the parties that culminated in the making of the contracts, said Defendants expressly 10 warranted to Plaintiffs and/or their predecessors in interest that said units were constructed in 11 conformity with the applicable building codes and the specific codes and regulations of Clark County, 12 13 the approved plans and specifications, and that said structures were and are sound and safe, and 14 would remain so. 15 14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of 15 fact, and promises made by Defendants. Plaintiffs, and each of them, have duly performed all the 17 18 conditions and covenants of said contracts on their part to be performed. 19 15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said 20 breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, 21 to remedy these defects. 22 16. As a direct and proximate result of the breach of the express warranties (written and oral) 23 24 by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming 25 from, among other items, defectively built roofs, leaking windows, dirt coming through windows, 25 drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation 27 slabs, and other poor workmanship. 28 (00099690.DOC) COMPLAINT FOR DAMAGES

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| 41                                      |  |
|---|--|
|   | 17. Plaintiffs have suffered damages in an amount not fully known, but believed to be with   |
| the                                     | jurisdiction of this Court in that they have been and will hereafter be required to perform works of   |
| rep                                     | air, restoration, and construction to portions of the structures to prevent further damage and   |
| rest                                    | ore the structures to their proper condition. Plaintiffs will establish the precise amount of suc  |
| dan                                     | nages at trial, according to proof.  |
|   | 18. Plaintiffs are entitled to all damages set forth at NRS 40.655.  |
|   | SECOND CAUSE OF ACTION   |
|   | (Breach of Implied Warrantics-Third Party Beneficiary  |
|   | as against Does 1 through 400)   |
|   | 19. Plaintiffs reallege and incorporate by reference paragraphs 1 through 18 of the Complain   |
| ast                                     | hough fully set forth herein.  |
|   |  |
|   | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the  |
| enti                                    | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of  |
| enti<br>con                             | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of  |
| enti<br>con                             | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of<br>struction of the residences at the subject property. Plaintiffs and/or their predecessors in intere<br>e third party beneficiaries of each and every such contract.   |
| enti<br>con<br>wei                      | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of<br>struction of the residences at the subject property. Plaintiffs and/or their predecessors in intere<br>e third party beneficiaries of each and every such contract.<br>21. Further, said Doe defendants by entering into said contracts with THE DEVELOPER  |
| enti<br>con<br>wei                      | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of<br>struction of the residences at the subject property. Plaintiffs and/or their predecessors in intere<br>third party beneficiaries of each and every such contract.<br>21. Further, said Doe defendants by entering into said contracts with THE DEVELOPER<br>NEVADA, LLC. and/or Plaintiffs and/or their predecessors in interest, impliedly warranted th  |
| enti<br>con<br>wei<br>OF                | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of<br>struction of the residences at the subject property. Plaintiffs and/or their predecessors in intere<br>third party beneficiaries of each and every such contract.<br>21. Further, said Doe defendants by entering into said contracts with THE DEVELOPER<br>NEVADA, LLC. and/or Plaintiffs and/or their predecessors in interest, impliedly warranted th<br>thomes would be of good and merchantable quality and would be at least a quality as would be it   |
| enti<br>con<br>wei<br>OF<br>said        | endants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the<br>ties to perform certain services or work with regard to the design, construction and inspection of<br>struction of the residences at the subject property. Plaintiffs and/or their predecessors in intere<br>third party beneficiaries of each and every such contract.<br>21. Further, said Doe defendants by entering into said contracts with THE DEVELOPER<br>NEVADA, LLC. and/or Plaintiffs and/or their predecessors in interest, impliedly warranted the<br>homes would be of good and merchantable quality and would be at least a quality as would be<br>the ordinary purpose for which such homes were to be used and would be habitable. Further, sa   |
| enti<br>con<br>wer<br>OF<br>saic<br>for | <ul> <li>20. Plaintiffs are informed and believe and on that basis allege that Defendants and Decadants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with the ties to perform certain services or work with regard to the design, construction and inspection of struction of the residences at the subject property. Plaintiffs and/or their predecessors in interest e third party beneficiaries of each and every such contract.</li> <li>21. Further, said Doe defendants by entering into said contracts with THE DEVELOPER NEVADA, LLC. and/or Plaintiffs and/or their predecessors in interest, impliedly warranted the the ordinary purpose for which such homes were to be used and would be habitable. Further, said contract in purpose for which such homes were to be used and would be habitable. Further, said common areas a vided in NRS 116.4114.</li> </ul> |

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22. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Doe defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.

23. Certain Plaintiffs and/or Homeowners at the subject property have notified Dee defendants of said breach of implied warranties and said Doe defendants have refused and continue to refuse to remedy these defects.

8 24. As a direct and proximate result of the breach of the implied warranties by Doe 9 defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, 10 among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall 11 12 cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and 13 other poor workmanship. Numerous additional defective conditions exist as more particularly 14 described in Plaintiffs' expert reports. Plaintiffs are presently unaware of the precise amount of 15 damages, but will establish the same at trial according to proof, and in accordance with NRS 40.655. 16

## THIRD CAUSE OF ACTION

(Negligence and Negligence per se

### As to All Defendants, and Does 1 through 400)

25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint as though fully set forth herein.

23 26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the
 24 subject structure and subject premises were not properly or adequately designed, engineered,
 25 marketed, supervised and/or constructed, that the owners and users would be substantially damaged
 26 thereby, and that the subject structures would be defective and not of merchantable quality.

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9 COMPLAINT FOR DAMAGES

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|     | 27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to        |
|-----|---|
| e   | xercise ordinary care to avoid reasonably foreseeable injury to users and purchasers of the subjec    |
| p   | remises and structures, and knew or should have foreseen with reasonable certainty that purchasers    |
| a   | nd/or users would suffer the monetary damages set forth herein, if said Defendants, and each or       |
| uł  | tem, failed to perform their duty to cause the subject premises and subject structures to be designed |
| e   | ngineered and completed in a proper and workmanlike manner and fashion.                               |
|     | 28. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and             |
| n   | eglected to perform the work, labor and services properly or adequately in that each said Defendants  |
| so  | o negligently, carclessly, recklessly and in an unworkmanlike manner designed, constructed and        |
| in  | spected the subject property and performed the aforesaid work, labor and/or services, such that the   |
| st  | ibject premises and subject structures as described herein were designed, engineered and/or           |
| C   | onstructed improperly, negligently, carelessly and/or in an unworkmanlike manner, thereby             |
| bi  | reaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the   |
| pi  | emises were constructed in an unworkmanlike manner.   |
|     | 29. Defendants' negligence alleged above includes the failure to meet the applicable building         |
| co  | odes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest      |
| w   | ere members of the class of persons which the building codes and ordinances were designed to          |
| pr  | otect. Such violations are negligence per se on the part of Defendants, and each of them.             |
|     | 30. As a direct and proximate result of the foregoing negligence and negligence per se,               |
| ca  | relessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of        |
| th  | cm, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently  |
| ur  | naware of the precise amount of damages needed in order to correct the defective conditions of the    |
| su  | bject property and subject structures, but will establish the same at trial according to proof.       |
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|        | 31. Plaintiffs are also entitled to the damages set forth at NRS 40.655.                           |
|--------|--|
| 11     | FOURTH CAUSE OF ACTION   |
|        |  |
|        | (Negligent Misrepresentation and Negligent Failure to Disclose                                     |
|        | as to All Defendants and Does 1 through 400)   |
|        | 32. Plaintiffs reallege and incorporate by referenced paragraphs 1 through 31 of                   |
| Con    | plaint, as though fully set forth herein.  |
|        | 33. Plaintiffs allege that, at all relevant times, Defendants, and each of them, owed              |
| Plai   | ntiffs and members of the general public, a duty to disclose all conditions potentially hav        |
| adve   | erse impact upon the subject properties, their value and their safety as well as stability. Plaint |
| alle   | e that Defendants, and each of them, also owed Plaintiffs and members of the general public        |
| duty   | to represent with reasonable accuracy the actual conditions, quality and significant fact          |
| con    | serning value, safety and stability of the subject properties. As the builders, developers         |
| selle  | rs of said subject properties, Defendants, and each of them, held a special relationship of the    |
| and    | confidence with potential buyers such that dutics of disclosure and accurate representations w     |
| incu   | mbent upon Defendants, and each of them.   |
|        | 34. Plaintiffs allege that Defendants, and each of them, at all relevant times, in breach of       |
| duti   | es set forth above, negligently misrepresented and/or failed to disclose to Plaintiffs and memb    |
|        | e general public, facts and information regarding the defective conditions known to Defendation    |
|        | affecting the subject properties, as described herein above.                                       |
| and    |  |
|        | 35. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each of the      |
|        | v or should have known that members of the public, including the Plaintiffs, would purchase        |
| Ĩ      | e family homes and that Defendants who have superior knowledge and expertise as build              |
| deve   | lopers and sellers of the subject properties, were required to correct any such defects in         |
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| 10009  | 11   |

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1 properties and were further required not to sell such defective properties, and were also required to 2 make such defects in the properties known to Plaintiffs as prospective purchasers. 3 36. Had Plaintiffs known the undisclosed facts, Plaintiffs would have either investigated the 4 condition and integrity of said homes and common areas or would have declined to purchase the 5 residences, nor would Plaintiffs have relied, as they did, upon Defendants, and each of their, 6 7 representations that the subject homes were generally in good condition and fit for their intended use 8 and that all repair work and/or renovations had been successfully completed. 9 37. Plaintiffs allege that as a direct and proximate result of the defects set forth herein, 10 Plaintiffs have suffered damages in an amount not fully known, but believed to be within the 11 12 jurisdiction of this Court in that they have been and will hereafter be required to perform works of 13 repair, restoration, and construction to portions of the structures to prevent further damage and to 14 restore the structures to their proper condition. Plaintiffs will establish the precise amount of such 15 damages at trial, according to proof. 16 38. Plaintiffs are also entitled to the damages set forth at NRS 40.655. 17 18 FIFTH CAUSE OF ACTION 19 (Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400) 20 39. Plaintiffs reallege and incorporate by reference paragraphs 1 through 38 of the Complaint, 21 as though fully set forth herein. 22 40. All Defendants each impliedly warranted that said homes would be of good and 23 24 merchantable quality, would be habitable, and would be completed in a workmanlike manner. 25 Further, said Defendants impliedly warranted the quality of construction of the homes and common 26 areas as provided in NRS 116.4114. 23 28 (00099690.DOC) 12 COMPLAINT FOR DAMAGES

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|      | 41. The Plaintiffs purchased their homes in reliance on the implied warranties and promises      |
|------|--|
| mac  | de by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and      |
| con  | ditions of said contracts on their part to be performed.   |
|      | 42. Certain Plaintiffs and/or Homeowners at the subject property have notified Defendants of     |
| said | I breach of implied warranties and said Defendants have refused and continue to refuse to remedy |
| thes | se defects.  |
|      | 43. As a direct and proximate result of the breach of the implied warranties by Defendants and   |
| cacl | h of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, |
| defe | ectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco     |
| crac | cking, stucco staining, water and insect intrusion through foundation slabs, and other poor      |
| wor  | kmanship. Plaintiffs are presently unaware of the precise amount of damages, but will establish  |
| the  | same at trial according to proof.  |
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|       |           | Automoys for Figurins   |
|       |           | Las Vegas, NV 89128<br>Attorneys for Plaintiffs   |
|       |           | Bar. No. 8737<br>2881 Business Park Court, Suite 210                                      |
|       |           | Eric Ransavage, Esq.<br>Bar. No. 8876<br>Bradley S. Rosenberg, Esq.                       |
|       |           | Duane E, Shinnick, Esq.<br>Bar No. 7176   |
|       |           | By: /s/ Eric Ransavage  |
|       |           | SHINNICK, RYAN & RANSAVAGE P.C.   |
|       | DAT       | "ED this 5 <sup>th</sup> day of January, 2012   |
|       | 7.        | For such other and further relief as the Court may deem just and proper.                  |
|       | 6.        | For costs of suit incurred;   |
|       |           | 40.655;   |
|       | 5.        | For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and           |
|       |           | at the maximum legal rate;  |
|       | 4.        | For prejudgment and post-judgment interest on all sums awarded, according to proof        |
|       | 3         | For reasonable attorneys fees and costs according to proof.                               |
|       | 2.        | For damages in an amount according to proof,  |
|       |           | and out-of-pocket expenses to be determined at time of trial;                             |
|       |           | costs of repair, loss of market value, loss of use, loss of financing, loss of investment |
|       | 1.        | For general and special damages in excess of \$10,000.00 including but not limited to     |
| follo | ws:       |   |
|       | WH        | EREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as            |

ISIC 3751 AA004135

# EXHIBIT 111

Defendant/Third-Party Plaintiff The Developers of Nevada, LLC's Third-Party Complaint filed on May 28, 2013, in the *Marcel* action (ISIC 3752-3763)

(Page 1 of 12)

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|   | Electronically Filed<br>05/28/2013 04:26:32 PM   |
|---|--|
| PC<br>RAIG D. GUENTHER, ESQ.<br>Ievada Bar No.: 6998<br>AN LAUVER, ESQ.<br>Ievada Bar No.: 3465<br>RAIG D. GUENTHER, P.C.<br>127 W. Russell Rd., Suite 220<br>.as Vegas, Nevada 89148<br>02.492.7646<br>Fax: 702.492.7656<br>rraig@cdguentherlaw.com<br>ebccca@cdguentherlaw.com<br>ANN G. RICHARD, ESQ.<br>Nevada Bar No.: 10202<br>COOKSEY, TOOLEN, GAGE, DUFFY & WOOG<br>3930 Howard Hughes Pkwy., Suite 200<br>Las Vegas, NV 89159  | 05/28/2013 04:26:32 PM   |
| 702.949.3100<br>Fax: 702.949.3104<br>arichard@cookseylaw.com  |  |
| Attorneys for Defendant/Third-Party Plaintiff<br>THE DEVELOPERS OF NEVADA, LLC  |  |
| DISTRICT  | COURT  |
| CLARE COUNT   | TY, NEVADA   |
| NOVEA G. MARCEL, individually; CLAUDIO<br>ALLENDE, individually; SONIA BURGOS,<br>individually, DIOMAR CHIN and GISELA<br>BELTRAN, individually; JASON CORRAL,<br>individually, CINDY DOWNER, individually;<br>ERWIN and ANA MARIA HERNANDEZ,<br>individually; MARILYN KOFF, individually; JOHN<br>PICCARDO TRUST and KATHLEEN<br>THORNHILL TRUST, individually; ICL<br>INVESTMENT LLC, individually; JETMAS<br>LIMITED PARTNERSHIP, individually;<br>JACQUELYN WILLIAMS, individually; ROY E.<br>WILDER, SR., individually; CHRISTINA<br>BRUNELLF, individually; TYRONE and MARIA<br>HANNA SPRING, individually; and the same on<br>behalf of themselves and on behalf of others<br>similarly situated, and ROES 19-600, inclusive,<br>Plaintiffs,<br>V.<br>THE DEVELOPERS OF NEVADA, LLC, a | CASE NO.: A-12-654209-D<br>DEPT NO.: XXII<br>(ELECTRONIC FILING CASE)<br>DEFENDANT/THIRD-PARTY<br>PLAINTIFF THE DEVELOPERS O<br>NEVADA, LLC'S THIRD-PARTY<br>COMPLAINT |
| Nevada Limited-Liability Company; and DOES 1<br>through 500, Inclusive,   |  |
| Defendants.   |  |
|   |  |

**ISIC 3752** 

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1 V. THE DEVELOPERS OF NEVADA, LLC, a 2 Nevada Limited-Liability Company; and DOES 1 through 500, Inclusive, 3 Defendants. 4 5 THE DEVELOPERS OF NEVADA, LLC, a Nevada Limited-Liability Company, 6 Third-Party Plaintiffs, 7 8 v. BADGER CONSTRUCTION CO.; CBK, INC.; 9 C&F DISTRIBUTORS; CAMPBELL CONCRETE. OF NEVADA, INC.; CAPITAL CABINET 10 CORP.; CHAMPION MASONRY; CLASSIC PLUMBING, INC.; CONCRETE SERVICES, 11 INC.; CUSTOM HEARTH DISTRIBUTORS; DAN BRADLEY'S GLASS SHOP; DISTINCTIVE 12 MARBLE, INC.; GARAGE DOOR CENTER; GENERAL ELECTRIC; GLAZING 13 INDUSTRIES; HARRISON DOOR CO.; INFINITY BUILDING PRODUCTS; INFINITY 14 WINDOWS; IRON SPECIALISTS; METRO ELECTRIC; MS CONCRETE CO., INC.; 15 NEVADA COUNTERTOP CORP.; PACIFIC STUCCO, INC.; PENINSULA FLOORS, INC. dba 16 THE DESIGN CENTER; SIERRA AIR CONDITIONING; SKYLINE INSULATION; 17 SOUND & SECURE dba EAGLE SENTRY; S&S PAINTING & DRYWALL; SOUTHERN 18 NEVADA PAVING, INC.; SOUTHWEST GLAZING; STATEWIDE LIGHTING CENTER, 19 INC.; SUN CITY LANDSCAPES & LAWN MAINTENANCE, INC.; SUN STATE LANDSCAPING; TS PAINTING & DRYWALL, 20 INC.; TITAN STAIRS, INC.; TRI-CITY 21 DRYWALL, INC.; VINYLWORKS, INC.; WESTCOR CONSTRUCTION dba SOUTHWEST 22GLAZING; WILLIS ROOF CONSULTANTS; and ZOES 1 through 250, inclusive, 23 Third-Party Defendants. 24 25111 26 HI27 111 28 Page 2 of 12

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# DEFENDANT/THIRD-PARTY PLAINTIFF THE DEVELOPERS OF NEVADA, LLC'S THIRD-PARTY COMPLAINT

COME NOW, Defendant/Third-Party Plaintiff, THE DEVELOPERS OF NEVADA (hereinafter 3 referred to as "DEVELOPERS"), by and through their attorneys of record, CRAIG D. GUENTHER, P.C. 4 and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, for their Third-Party Complaint against 5 BADGER CONSTRUCTION CO.; CBK, INC.; C&F DISTRIBUTORS; CAMPBELL CONCRETE OF 6 NEVADA, INC.; CAPITAL CABINET CORP.; CHAMPION MASONRY; CLASSIC PLUMBING, 7 INC.; CONCRETE SERVICES, INC.; CUSTOM HEARTH DISTRIBUTORS; DAN BRADLEY'S 8 GLASS SHOP; DISTINCTIVE MARBLE, INC.; GARAGE DOOR CENTER; GENERAL ELECTRIC; 9 GLAZING INDUSTRIES; HARRISON DOOR CO.; INFINITY BUILDING PRODUCTS; INFINITY 10 WINDOWS; IRON SPECIALISTS; METRO ELECTRIC; MS CONCRETE CO., INC.; NEVADA 11 COUNTERTOP CORP.; PACIFIC STUCCO, INC.; PENINSULA FLOORS, INC. dba THE DESIGN 12 CENTER; SIERRA AIR CONDITIONING; SKYLINE INSULATION; SOUND & SECURE dba 13 EAGLE SENTRY; S&S PAINTING & DRYWALL; SOUTHERN NEVADA PAVING, INC.; 14 SOUTHWEST GLAZING; STATEWIDE LIGHTING CENTER, INC.; SUN CITY LANDSCAPES 15 & LAWN MAINTENANCE, INC.; SUN STATE LANDSCAPING; TS PAINTING & DRYWALL, 16 INC.; TITAN STAIRS, INC.; TRI-CITY DRYWALL, INC.; VINYLWORKS, INC.; WESTCOR 17 CONSTRUCTION dba SOUTHWEST GLAZING; WILLIS ROOF CONSULTANTS; and ZOES 1 18 through 250, inclusive, (collectively hereinafter referred to as "Third-Party Defendants"), complain and 19 allege the following: 20

21

# GENERAL ALLEGATIONS

DEVELOPERS are a party to this action brought by Plaintiffs, who have named 1. 22 **DEVELOPERS** as Defendants. 23

At all times relevant herein, Third-Party Defendants were entities doing business in the State  $\mathbf{2}$ . 24 of Nevada and developed and/or performed construction related work and/or supplied materials for the 25 construction improvements within the housing development known as Dove Canyon, consisting of 188 26 single family residences, in N. Las Vegas, Nevada, which is the subject of Plaintiffs' Complaint (hereinafter 27 the "subject property"). 28

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The Third-Party Defendants, and each of them, were subcontractors and/or design
 professionals who, developed, designed, performed construction activities and/or provided materials and/or
 other items which were installed into and/or became a part of said subject property.

3 DEVELOPERS are informed and believe, and therefore allege, that the true names and 4. 4 capacities, whether individual, corporate, associate or otherwise of ZOES 1 through 250 are unknown to 5 DEVELOPERS who therefore sue said Third-Party Defendants by said fictitious names. Third-Party 6 Defendants designated as ZOES 1 through 250 are responsible in some manner as an entity developing, 7 designing, performing construction related activities and/or providing materials for construction of the 8 subject property and are responsible for the events and happenings described in Plaintiffs' Complaint, and 9 all amendments made thereto and in this Third-Party Complaint which proximately caused damages to 10 DEVELOPERS as alleged herein. DEVELOPERS are informed and believe that each of the Third-Party 11 Defendants designated as ZOES in some manner developed, performed work, installed, designed, 12 constructed or supplied materials to the subject property, pursuant to agreements between DEVELOPERS 13 and Third-Party Defendants, and each of them, or otherwise. Third-Party Plaintiffs will ask leave of Court 14 to amend this Third-Party Complaint to insert the true names and capacities of the ZOES 1 through 250 15 and state appropriate charging allegations when that information has been ascertained. 16

That DEVELOPERS specifically complain and allege a cause of action against the specific 5. 17 entity, or entities, that developed, performed work, installed, designed, constructed, supplied materials 18 and/or were otherwise responsible for the subject real property and the improvements made thereon. As 19 of the filing of this Third-Party Complaint, DEVELOPERS are not sure as to whether those entities are 20 individuals, a partnership, a limited partnership, a corporation, an association of individuals and business, 21 or some other form of business ownership, and as soon as the exact nature of the entity or entities that 22 developed, performed work, installed, designed, constructed, supplied materials and/or were otherwise 23 responsible for the subject real property and the improvements made thereon are known, Third-Party 24 Plaintiffs will amend their Third-Party Complaint and will substitute the exact names of the proper Third-25 Party Defendants in place of ZOES 1 through 250. 26

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|    |  |
|    | 6. The work being done by or materials supplied by each of the Third-Party Defendants were   |
| 1  | pursuant to a contract, whether express or implied, with DEVELOPERS to complete construction work,   |
| 2  | summer to design plans and specifications of the subject property referenced above.  |
| 4  | 7 That while working at the site, Third-Party Defendants acted in a negligent and/or carcless  |
| 5  | performed acts which resulted in the breach of their contractual obligations to DEVELOPERS   |
| 6  | and/or others, including, but not limited to those of falless  |
| 7  | and merchantability, and/or supplied defective products in an unreasonably dangerous and defective   |
| 8  | this which allegedly injured and/or caused damages to Plaintiffs as alleged in Plaintiffs Company  |
| 9  | and all amendments made thereto. Said acts have also tesulted in damages to DEVELOPERS by subjecting   |
| 10 | DEVELOPERS to suit.  |
| 11 | FIRST CLAIM FOR RELIEF<br>(Equitable Indemnity)  |
| 12 | (Against all Third-Party Defendants)   |
| 13 | 8. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 7 as   |
| 14 | though fully set forth herein.   |
| 15 | 9. DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants  |
| 16 | are and at all times herein mentioned were, either individuals, sole proprietorships, partnerships, registered   |
| 17 | professionals, corporations, or other legal entities which are licensed and/or qualified to do and were doing  |
| 18 | business in the County of Clark, State of Nevada, at all times relevant to the subject matter of this action.  |
| 19 | 10. DEVELOPERS are informed and believe and thereon allege that the defects and damages  |
| 20 | alleged by Plaintiffs in their Complaint, and all amendments made thereto, involve defects and damages to  |
| 21 | or destruction of property and DEVELOPERS are further informed and believe and thereon allege that   |
| 22 | said damages were caused by Third-Party Defendants, and each of them, arising out of and in connection   |
| 23 | with, the performance of Third-Party Defendants' development, design, operations and work at the subject   |
| 24 | property.  |
| 2  | 5 11. In equity and good conscience, if Plaintiffs recover against DEVELOPERS herein, then   |
| 2  | 6 DEVELOPERS are entitled to equitable indemnity, apportionment of liability and contribution among and<br>7 from the Third-Party Defendants, and each of them, according to their respective faults for the injuries and                              |
| 2  | <ul> <li>from the Third-Party Defendants, and each of them, according in their respective ratio for the approximation</li> <li>damages allegedly sustained by Plaintiffs, if any, by way of sums paid by settlement, or in the alternative,</li> </ul> |
| 2  | amages allegedly sustained by Planons, it any, by way of sums part by contenting a state   |
|    | Page 5 of 12   |
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|        | 1  |
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| 1      | judgment rendered against DEVELOPERS based upon Plaintiffs' Complaint, and any amendments made       |
| 2      | thereto.   |
| 3      | 12. It has been necessary for DEVELOPERS to retain the services of CRAIG D.                          |
| 4      | GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the                           |
| 5      | Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover   |
| 6      | attorneys' fees and costs incurred herein.   |
| 7<br>8 | SECOND CLAIM FOR RELIEF<br>(Contribution)<br>(Against all Third-Party Defendants)                    |
| 9      | 13. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 12 as               |
| 10     | though fully set forth herein.   |
| 11     | 14. Based upon the acts and/or omissions of the Third-Party Defendants, and each of them,            |
| 12     | if a judgment is rendered on behalf of Plaintiffs, DEVELOPERS are entitled to contribution from each |
| 13     | of the Third-Party Defendants in an amount proportionate to the amount of negligence and/or fault    |
| 14     | attributable to each of the Third-Party Defendants.  |
| 15     | 15. It has been necessary for DEVELOPERS to retain the services of CRAIG D.                          |
| 16     | GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the                           |
| 17     | Accordingly, DEVELOPERS are entitled to recover its  |
| 18     |  |
| 19     | (Against all Third-Party Defendants)   |
| 2(     | to EVELOPERS refer to and incorporate herein by reference paragraphs 1 through 15 as                 |
| 21     | 1. A Gally and barren haven  |
| 2.     | AT DEVUELODERS are entitled to an apportionment of liability among Third-Party Defendants,           |
| 2.     | and each of them.  |
| 2      | 18. It has been necessary for DEVELOPERS to retain the services of CRAIG D.                          |
| 2      | GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the                           |
| 2      | Accordingly DEVELOPERS are entitled to recover its   |
| 2      | 8 reasonable attorney's fees and costs incurred herein.  |
|        | Page 6 of 12   |
|        |  |

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| 1  | FOURTH CLAIM FOR RELIEF<br>(Negligence)  |
|----|--|
| 2  | (Against All Third-Party Defendants)   |
| 3  | 19. DEVELOPERS refet to and incorporate herein by reference paragraphs 1 through 18 as                       |
| 4  | though fully set forth herein.   |
| 5  | 20. Third-Party Defendants, and each of them, owed a contractual and/or legal duty to                        |
| 6  | DEVELOPERS to exercise due and reasonable care in the design, construction and/or development of             |
| 7  | the subject property. Third-Party Defendants also had a legal duty to abide by local construction practices, |
| 8  | industry standards, governmental codes and restrictions, manufacturer requirements, Clark County Building    |
| 9  | Codes, product specifications and/or the laws of the State of Nevada.  |
| 10 | 21. If the subject property is defectively designed, developed and/or constructed, Third-Party               |
| 11 | Defendants, and each of them, are responsible for such defects in that they failed to act reasonably in the  |
| 12 | design, development and construction of the subject property, thereby breaching their duty owed to           |
| 13 | DEVELOPERS.  |
| 14 | 22. If the subject property is defectively designed, developed and/or constructed, the acts or               |
| 15 | omissions of Third-Party Defendants and each of them were the direct and proximate cause of any and all      |
| 16 | damages incurred by DEVELOPERS.  |
| 17 | 23. DEVELOPERS are informed and believe and thereon allege that Plaintiffs' damages, if any,                 |
| 18 | were proximately caused by Third-Party Defendants, as set forth above, and each of them, and that said       |
| 19 | Third-Party Defendants are liable for the damages sought by Plaintiffs in their Complaint.                   |
| 20 | 24. The breach(es) of the aforementioned duties by each Third-Party Defendant as described                   |
| 21 | in Paragraphs 20 through 23 above were and are the actual and proximate cause of damages to                  |
| 22 | DEVELOPERS in excess of \$10,000.  |
| 23 | 25. It has been necessary for DEVELOPERS to retain the services of CRAIG D.                                  |
| 24 | GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the                                   |
| 25 | Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its       |
| 26 | reasonable attorney's fees and costs incurred herein.  |
| 27 | 111  |
| 28 |  |
|    | $P_{con} = 7 \circ f_{c} = 12$   |
|    | Page 7 of 12   |
|    |  |

**ISIC 3758** 

(Page 8 of 12)

| 1  | <u>FIFTH CLAIM FOR RELIEF</u><br>(Breach of Express and/or Implied Warranties)<br>(Against All Third-Party Defendants)  |
|----|---|
| 3  | 26. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 25 as  |
| 4  | though fully set forth herein.  |
| 5  | 27. DEVELOPERS are informed and believe and thereon allege that pursuant to the contracts   |
| 6  | between DEVELOPERS and Third-Party Defendants, Third-Party Defendants impliedly and expressly   |
| 7  | watranted that the work would be done in a good, workmanlike, and substantial manner, in full accordance  |
| 8  | with the provisions and conditions of the agreements and the plans and specifications.  |
| 9  | 28 DEVELOPERS relied upon said warranties and believed that said work performed pursuant  |
|    | to said agreements would be of a first class and workmanlike manner and fit for its intended use and  |
| 10 |   |
| 11 | 29. DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants,   |
| 12 | and each of them, breached said agreements as it has been alleged by Plaintiffs in the underlying action  |
| 13 | herein, that numerous deficiencies exist at the site as set forth in the Complaint on file herein, which alleged  |
| 14 |   |
| 15 | deficiencies are incorporated herein by reference.<br>30. As a proximate result of the breach of express and/or implied warranties by Third-Party   |
| 16 | 30. As a proximate result of the Dreach of Capitos and, or map<br>Defendants, and each of them, DEVELOPERS allege that it will suffer damages in a sum equal to any sums                    |
| 17 | Defendants, and each of them, DEVELOPERS allege that it will ended a gainst DEVELOPERS in the paid by way of settlement, or in the alternative, judgment rendered against DEVELOPERS in the |
| 18 | 1   |
| 19 | underlying action based upon Plaintiffs' Complaint.<br>31. This Third-Party Complaint will serve as notice of such conditions and DEVELOPERS are  |
| 20 | 31. This Third-Party Complaint will serve as notice of such containents and each of them, declined to   |
| 21 | informed and believe and thereon allege that Third-Party Defendants, and each of them, declined to  |
| 22 | acknowledge the responsibilities to repair the alleged deficiencies as referenced above.  |
| 2  | 3 32. The breach(es) of the aforementioned warranties by each Third-Party Defendant as  |
| 2  | described in Paragraphs 27 through 31 above, was and is the actual and proximate cause of damages to  |
| 2  | 5 DEVELOPERS in excess of \$10,000.   |
| 2  | 6 ///   |
| 2  | 7 ///   |
| 2  | 8 ///   |
|    | Page 8 of 12  |
|    |   |

ISIC 3759

(Page 9 of 12)

|    | 11   |
|----|--|
|    |  |
|    |  |
| 1  | 33. It has been necessary for DEVELOPERS to retain the services of CRAIG D.  |
|    | CUENTHER P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the  |
| 3  | Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its   |
| 4  | reasonable attorney's fees and costs incurred herein.  |
| 5  | SIXTH CLAIM FOR RELIEF   |
| 6  | (Implied Indomnity)<br>(Against All Third-Party Defendants)  |
| 7  | 34. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 33 as   |
| 8  | though fully set forth herein.   |
| 9  | 35 DEVELOPERS are informed and believe and thereon allege that DEVELOPERS entered  |
|    | into written oral and/or implied agreements with the Third-Party Defendants, that Third-Party Defendants,  |
| 10 | and each of them, would indemnify DEVELOPERS in the event of loss related to the subject property.   |
| 11 | 36. By reason of the foregoing, if Plaintiffs recover against DEVELOPERS, then   |
| 12 | DEVELOPERS are entitled to implied contractual indemnity from Third-Party Defendants, and each of  |
| 13 | them, for injuries and damages sustained by Plaintiffs, if any, for any sums paid by way of settlement, or in  |
| 14 | them, for injunes and damages damated by the the underlying action based upon Plaintiffs' the alternative, judgment rendered against DEVELOPERS in the underlying action based upon Plaintiffs'  |
| 15 | Complaint or any amendments thereto, or any Third-Party Complaints filed herein.   |
| 16 | C DEVELOPERS to retain the services of CRAIG D.  |
| 17 | 37. It has been necessary for DEVILLOTERO to found in GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the   |
| 18 | GUENTHER, P.C. and COOKSET, TOOLDA, OTTON, O |
| 19 |  |
| 20 | reasonable attorney's fees and costs incurred herein.<br>SEVENTH CLAIM FOR RELIEF  |
| 21 | (Express Indemnity)  |
| 22 | (Against all Third-Party Defendants)   |
| 23 | 38. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 37 as   |
| 24 | though fully set forth herein.   |
| 25 | 39. The damages alleged and the claims made by Plaintiffs against DEVELOPERS are the   |
| 26 | proximate result in whole or in part of the acts of Third-Party Defendants and each of them.   |
| 27 | 111  |
| 28 | 3 ///  |
|    | Page 9 of 12   |
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|    | ll contraction of the second sec   |

**ISIC 3760** 

(Page 10 of 12)

| 1                               |  |
|---------------------------------|--|
| 1<br>2<br>3<br>4<br>5<br>6<br>7 | <ul> <li>40. As a result of the Plaintiffs' claims against DEVELOPERS, DEVELOPERS may be held liable to Plaintiffs for all of said damage which may be sustained, in which event, DEVELOPERS are entitled to be indemnified by Third-Party Defendants, and each of them.</li> <li>41. Pursuant to the terms of the agreements entered into between DEVELOPERS and the Third-Party Defendants, DEVELOPERS have rights of indemnification from the Third-Party Defendants, and each of them.</li> <li>42. Pursuant to the terms of the agreements entered into between DEVELOPERS and the Third-Party Defendants, Third-Party Defendants, and each of them.</li> </ul> |
| 8<br>9<br>10<br>11              | in the action filed by Plaintiffs.<br>43. It has been necessary for DEVELOPERS to retain the services of CRAIG D.<br>GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the  |
| 12<br>13<br>14<br>15            | Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its<br>reasonable attorney's fees and costs incurred herein.<br><u>EIGHTH CLAIM FOR RELIEF</u><br>(Declaratory Relief)<br>(Against all Third-Party Defendants)  |
| 16<br>17<br>18<br>19<br>20      | <ul> <li>44. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 43 as though fully set forth herein.</li> <li>45. A dispute has arisen and actual controversy now exists between DEVELOPERS and Third-Party Defendants, and each of them, as to their rights and liabilities with respect to any ultimate responsibility in the underlying action, and with respect to the rights to receive, or duty to give,</li> </ul>  |
| 21<br>22<br>23<br>24            | indemnification in proportion to their comparative fault, if any. DEVELOPERS contend that if they suffer<br>judgment in the underlying action, or if they pay money by way of reasonable compromise of said claim,<br>DEVELOPERS are entitled to be indemnified by Third-Party Defendants and to judgment over and against<br>them, to the extent that DEVELOPERS' responsibility in the underlying action exceeds their percentage  |
| 25<br>26<br>27<br>28            | Defendants contend to the contrary. Therefore, an actual controversy exists relative to the legal rights,<br>duties and obligations of the respective parties, which controversy DEVELOPERS request the Court to   |
|                                 | Page 10 of 12  |

**ISIC 3761** 

(Page 11 of 12)

| 46. All of the rights and obligations of the parties hereto arose out of what is actually one<br>cansaction or one series of transactions, happenings or events, all of which can be settled and determined<br>in a judgment in this one action. DEVELOPERS allege that an actual controversy exists between the |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|
| n a judgment in this one action. DEVELOPERS allege that an actual controversy exists between the   |  |  |  |  |  |  |  |  |  |
| A declaration of rights,   |  |  |  |  |  |  |  |  |  |
| parties to the Third-Party Complaint under the circumstances alleged. A declaration of rights,<br>responsibilities and obligations of DEVELOPERS and Third-Party Defendants, and each of them, are   |  |  |  |  |  |  |  |  |  |
| essential to determine their respective obligations in connection with the principal action and Third-Party  |  |  |  |  |  |  |  |  |  |
| Complaint. DEVELOPERS have no true and speedy remedy at law of any kind.   |  |  |  |  |  |  |  |  |  |
| 47. It has been necessary for DEVELOPERS to retain the services of CRAIG D.  |  |  |  |  |  |  |  |  |  |
| GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the   |  |  |  |  |  |  |  |  |  |
| Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its   |  |  |  |  |  |  |  |  |  |
| teasonable attorney's fees and costs incurred herein.  |  |  |  |  |  |  |  |  |  |
| NINTH CLAIM FOR RELIEF<br>(Breach of Contract)<br>(Against all Third-Party Defendants)   |  |  |  |  |  |  |  |  |  |
| 48. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 47 as   |  |  |  |  |  |  |  |  |  |
| though fully set forth herein.   |  |  |  |  |  |  |  |  |  |
| 49. DEVELOPERS are informed and believe and thereon allege that they entered into written  |  |  |  |  |  |  |  |  |  |
| agreements with Third-Party Defendants.  |  |  |  |  |  |  |  |  |  |
| 50. DEVELOPERS have fully performed all conditions, covenants and promises required by   |  |  |  |  |  |  |  |  |  |
| it to be performed in accordance with the terms and conditions of said written agreements.   |  |  |  |  |  |  |  |  |  |
| 51. DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants,  |  |  |  |  |  |  |  |  |  |
| and each of them, have breached said written agreements by failing to perform their work (a) in compliance   |  |  |  |  |  |  |  |  |  |
| with the applicable standard of care, (b) in a good and workmanlike manner and (c) in a manner that way  |  |  |  |  |  |  |  |  |  |
| consistent with their legal obligations as set forth in the various written agreements. Further,   |  |  |  |  |  |  |  |  |  |
| DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants have breached   |  |  |  |  |  |  |  |  |  |
| their agreements by (a) failing to defend and indemnify DEVELOPERS as a result of Plaintiffs' Complaint,   |  |  |  |  |  |  |  |  |  |
| (b) failing to name DEVELOPERS as additional insured as required under the agreements, and (c) by failing  |  |  |  |  |  |  |  |  |  |
| to take appropriate steps to make sure that appropriate additional insured endorsements and insurance  |  |  |  |  |  |  |  |  |  |
| coverage had been obtained.  |  |  |  |  |  |  |  |  |  |
| Page 11 of 12  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |

**ISIC 3762** 

(Page 12 of 12)

| DEV  | 52.<br>/ELOPE | As a direct and proximate result of Third-Party Defendants' breach of contract,<br>ERS have been damaged in a sum which is currently unascertainable. DEVELOPERS will seek |  |  |  |  |  |
|------|---------------|--|--|--|--|--|--|
|      |               | t to amend this Third-Party Complaint when such sums can be reasonably ascertained.  |  |  |  |  |  |
|      | WHI           | REFORE, THE DEVELOPERS OF NEVADA, LLC pray for judgment against Third-   |  |  |  |  |  |
| Part | y Defend      | ants, and each of them, as follows:  |  |  |  |  |  |
|      | 1.            | For general and special damages in excess of \$10,000.00;  |  |  |  |  |  |
|      | 2.            | For indemnity for all damages and/or economic losses that Plaintiffs recover against Third-  |  |  |  |  |  |
|      |               | Party Plaintiffs by way of judgment, order, settlement, compromise or trial;   |  |  |  |  |  |
|      | 3.            | For reasonable attorneys' fees, costs, expert costs and expenses, pursuant to statutory law,   |  |  |  |  |  |
| com  | mon law       | , and contract law;  |  |  |  |  |  |
|      | 4.            | For prejudgment interest;  |  |  |  |  |  |
|      | 5.            | For consequential damages in excess of \$10,000.00;  |  |  |  |  |  |
|      | 6.            | For incidental damages in excess of \$10,000.00;   |  |  |  |  |  |
|      | 7.            | For an apportionment of liability among the Third-Party Defendants;  |  |  |  |  |  |
|      | 8.            | For a declaration of rights and obligations as between Third-Party Plaintiffs and Third-Party  |  |  |  |  |  |
| Def  | endants;      |  |  |  |  |  |  |
|      | 9.            | For contribution pursuant to N.R.S. 17.225;  |  |  |  |  |  |
|      | 10.           | For such other and further relief as this Court may deem just, equitable and proper  |  |  |  |  |  |
|      | DAT           | ED this 28 <sup>th</sup> day of May 2013.  |  |  |  |  |  |
|      |               | CRAIG D. GUENTHER, P.C.  |  |  |  |  |  |
|      |               | 2 Dom  |  |  |  |  |  |
|      |               | By:CRAID D. GUENTHER, ESQ.   |  |  |  |  |  |
|      |               | Nevada Bar No.: 6998<br>JAN LAUVER, ESQ.   |  |  |  |  |  |
|      |               | Nevada Bar No.: 3465<br>9127 W. Russell Rd., Suite 220   |  |  |  |  |  |
|      |               | Las Vegas, Nevada 89148  |  |  |  |  |  |
|      |               | Attomcys for Defendant/Third-Party Plaintiff<br>THE DEVELOPERS OF NEVADA, LLC  |  |  |  |  |  |
|      |               |  |  |  |  |  |  |
|      |               |  |  |  |  |  |  |
|      |               | Page 12 of 12  |  |  |  |  |  |

**ISIC 3763** 

Case 2:15-cv-00460-JAD-PAL Document 44-7 Filed 09/19/16 Page 1 of 3

# EXHIBIT 112

Litigation Escrow Matrix (ISIC 3698-3699)

## Case 2:15-cv-00460-JAD-PAL Document 44-7 Filed 09/19/16 Page 2 of 3

### DOVE CANYON v. THE DEVELOPERS OF NEVADA LITIGATION ESCROW MATRIX

| NO. | UNIT | LOT | PHASE | HOMEOWNER                                    | STREET NO. | STREET  | CURRENT<br>CLOSE OF<br>ESCROW | DATE<br>DEED<br>RECORDED | ORIGINAL<br>HOMEOWNER<br>(if different from current) |
|-----|------|-----|-------|--|------------|---|-------------------------------|--------------------------|--|
| 1   | 3    | 63  | 19    | Novea Marcel                                 | 4516       | Windham Hills Lane<br>N. Las Vegas, NV 89031    | 7.21.10                       | 7.29.03                  |  |
| 1   |      | 00  | 17    | I WY CA IVEAICCI                             | 4010       | Cedar Bridge Court                              | 4.41.19                       | 1.29.00                  | Veronica Macias                                      |
| 2   | 111  | 137 | 1     | Erwin & Ana Hemandez                         | 5263       | N. Las Vegas, NV 89031                          | > 5.22.01                     | 5.22.01                  |  |
| ŝ   | 4    | 110 | 11    | Cindy Downer                                 | 5236       | Pack Creek Court<br>N. Las Vegas, NV 89031      | 9.20.02                       | 9.20.02                  |  |
| 4   | 2    | 91  | 5     | Marlyn Koff                                  | 4506       | Turkey Ridge Court<br>N. Las Vegas, NV 89031    | 11.20.01                      | 11.20.01                 |  |
| 5   | 2    | 163 | 4     | Roy E. Wilder                                | 5284       | Vine Hill Court<br>N. Las Vegas, NV 89031       | 9.28.10                       | 10.16.01                 | Bryan R. &<br>Jennifer Booker                        |
| 6   | 3    | 67  | 18    | lason Raymond Corral                         | 4511       | Sandstone Vista Court<br>N. Las Vegas, NV 89031 | 7.27.09                       | 6.06.03                  | Bridget Eiko Whalum                                  |
| 7   | 3    | 61  | 19    | Ictmas Limited Partnership                   | 4508       | Windham Hills Lane<br>N. Las Vegas, NV 89031    | 9.28.09                       | 7.15.03                  | Thomas R. Mullin                                     |
| 8   | õ    | 126 | 16    | Gisela Beltran<br>Diomar Chin                | 4717       | Delicate Arch Court<br>N. Las Vegas, NV 89031   | 10.15.10                      | 3.19.03                  | Isaac J. &<br>Darlene Lagerfeld                      |
| 9   | 2    | 2   | 3     | Jacqueline Williams                          | 5247       | Taos Pueblo Court<br>N. Las Vegas, NV 89031     | 11.14.06                      | 9.14.01                  | Terry Graham   |
| 10  | 5    | 6   | 15    | RCL Investment LLC                           | 4733       | Book Cliffs Court<br>N. Las Vegas, NV 89031     | 8.04.10                       | 5.23.03                  | Jennifer Best-Brewer                                 |
| 11  | 4    | 41  | 12    | John Piccardo Trust<br>Kathleen Thomhill TRS | 5206       | Pioneer Cabin Court<br>N. Las Vegas, NV 89031   | 8.13.10                       | 11.13.02                 | Billie J. Howard                                     |
| 12  | 3    | 82  | 17    | Christina M. Brunelle                        | 4512       | Sunset Crater Court<br>N. Las Vegas, NV 89031   | 10.20.11                      | 5.16.03                  | Kimberly D. Bowman                                   |
| 13  | 5    | 130 | 16    | Tyrone M. &<br>Maria Hanna Spring            | 4710       | Delicate Arch Court<br>N. Las Vegas, NV 89031   | 9.22.08                       | 3.25.03                  | Sixto & Martha P. Silva                              |
| 14  | 5    | 16  | 8     | Claudio A. &<br>Gabrilea M. Allende          | 5217       | Castle Butte Court<br>N. Las Vegas, NV 89031    | 10.21.09                      | 5.15.02                  | Johnnie J. &<br>Una M. Cline                         |

Created: 1/26/2012

1 WORK PRODUCT OF CRAIG D. GUENTHER, P.C.

Printed: 6/21/2013

# (Page 1 of 2)

## Case 2:15-cv-00460-JAD-PAL Document 44-7 Filed 09/19/16 Page 3 of 3

| N0. | UNIT | LOT | PHASE | HOMEOWNER    | STREET<br>NO.7 | STREET<br>NAME                               | CURRENT<br>CLOSE OF<br>ESCROW | DATE<br>DEED<br>RECORDED | ORIGINAL<br>HOMEOWNER<br>[If different from current) |
|-----|------|-----|-------|--------------|----------------|--|-------------------------------|--------------------------|--|
| 15  | 5    | 24  | 8     | Sonia Burgos | 4725           | Windham Hills Lane<br>N. Las Vegas, NV 89031 | 10.17.08                      | 5.31.02                  | Byron D. Grant                                       |

### DOVE CANYON v. THE DEVELOPERS OF NEVADA LITIGATION ESCROW MATRIX

WORK PRODUCT OF CRAIG D. GUENTHER, P.C.

2

Printed: 6/21/2013

(Page 2 of 2)

Case 2:15-cv-00460-JAD-PAL Document 44-8 Filed 09/19/16 Page 1 of 3

# EXHIBIT 113

August 6, 2013 letter from Certus to Ironshore (ISIC 3702-03)

.



#### Certain. Settled. Resolved.

August 6, 2013

Attn. Sanford Oster AVP, Casualty Claims Ironshore Insurance One State Street Plaza New York, NY 10004 sanford.oster@ironshore.com

| Re: | Novea Marce  | l, et al. | v. The Developers of Nevada, LLC, et al. |
|-----|--------------|-----------|--|
|     | Insured      | 1         | Lukestar Corp. dba Champion Masonry      |
|     | Policy No.   | :         | 011040905001 effective May 31, 2009-10   |
|     | Claimant     | •         | Novea Marcel, et al                      |
|     | Our File No. | •         | 131758-CM                                |

This will serve as our initial report on the above-captioned matter.

#### Assignment

We have been asked to assist Ironshore in the investigation of a construction defect allegation.

#### Factual Background

This action involves allegations of construction defect and property damage made by the owners of residences located in the city of N Las Vegas, NV. It appears Lukestar Corp. dba Champion Masonry completed their work on the project(s) involved in this case from 05/22/2001 – 07/29/2003.

The documents supplied to us revealed the construction involved in this project was completed by Lukestar Corp. dba Champion Masonry before the policy inception date.

#### The Policy

Ironshore issued Policy Number 011040905001 effective May 31, 2009 – May 31, 2010. The policy contains an Each Occurrence Limit of \$1,000,000.00 and a General Aggregate Limit in the amount of \$2,000,000.00.

The policy is also subject to numerous exclusions and endorsements, including but not limited to, the wrap up exclusion and the Continuous or Progressive Injury or Damage Exclusion (IB.EX.014B 7/08Ed).

Based on our review of the materials and information submitted regarding the subject project, we recommend a declination of coverage for this claim. Our reasons for this conclusion include:

 The claims made do not fall within the scope of the insuring agreement as discussed above; and

P.O. Box 1030, Camarillo, California 93011-1030 • P 805 987 8803 • F 805 987 8806 • www.CertusClaims.com

**ISIC 3702** 

To: Ironshore Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al. Date: August 6, 2013

• The project was completed by Lukestar Corp. dba Champion Masonry prior to the Ironshore policy's issue date and given the nature of the allegations is excluded under the Continuous or Progressive Injury or Damage Exclusion.

#### Liability Analysis

We have not been provided with a copy of the defect list or cost of repair.

#### Injuries/Damages

We have not received a defect list related to this claim.

#### REDACTED

#### Litigation Plan

As this matter appears to fall outside the scope of coverage, we do not plan to direct, or participate in any possible litigation related to this claim.

#### Action Plan

- 1. Pending your approval, send Declination of coverage, outlining our understanding of the facts and coverage issues and our reasons for concluding that there is no coverage obligation in this case.
- 2. Monitor, or hold in abeyance for 30 days. If no response at that time, we will close our file.

#### Next Report Date

None, if no response is received in 30 days.

Yours very truly,

Crystal Mathews

CM/rw

**ISIC 3703** 

# EXHIBIT 114

August 6, 2013 letter from Certus Claims to Lukestar Corp. dba Champion Masonry (ISIC 3726-3737)



## RECEIVED

#### Certain. Settled. Resolved. AUG 292013

**CERTUS CLAIMS** 

August 6, 2013

### VIA CERTIFIED & REGULAR MAIL

Attn. Lucretia G. Corral Lukestar Corp. dba Champion Masonry PO Box 35680 Las Vegas, NV 89113

| Re: | Novea Marce  | , et al. | v. The Developers of Nevada, LLC, et al. |
|-----|--------------|----------|--|
|     | Insured      | :        | Lukestar Corp. dba Champion Masonry      |
|     | Policy No.   | :        | 011040905001 effective May 31, 2009-10   |
|     | Claimant     | :        | Novea Marcel, et al                      |
|     | Our File No. | 0        | 131758-CM                                |

Dear Ms. Corral:

On behalf of Ironshore Specialty Insurance Company (hereinafter, "Ironshore"), this letter will serve to acknowledge receipt of the above captioned matter by this office. We are the claim administrators for this program. Please make note of our claim number and direct all future correspondence to this office, to the attention of this writer using our claim number as a reference.

Based on these documents and other information submitted, we have determined that this claim does not fall within the scope of coverage, or is otherwise excluded from coverage under the Ironshore policy, or policies issued to Lukestar Corp. dba Champion Masonry. As such, unless additional, new or different information is provided, Ironshore must deny your request for coverage in this matter. Our reasons for concluding that there is no coverage are explained below.

#### Factual Background

This action involves allegations of construction defect and property damage made by the owners of residences located in the city of N Las Vegas, NV. It appears Lukestar Corp. dba Champion Masonry completed their work on the project(s) involved in this case from 05/22/2001 - 07/29/2003.

The documents supplied to us revealed the construction involved in this project was completed by Lukestar Corp. dba Champion Masonry before the policy inception date.

P.O. Box 1030. Camarillo, California 93011-1030 · P 805.987.8803 · F 805.987.8806 · www.CertusClaims.com

ISIC 3726

To: Lukestar Corp. dba Champion Masonry
Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.
Date: August 6, 2013

#### The Policy

Ironshore issued Policy Number 011040905001 effective May 31, 2009 – May 31, 2010. The policy contains an Each Occurrence Limit of \$1,000,000.00 and a General Aggregate Limit in the amount of \$2,000,000.00.

Based on the facts of this matter as reported to Ironshore, when compared to the terms, conditions, exclusions and endorsements of the Ironshore policy or policies at issue, this claim does not fall within the coverage provided under the policy or policies under which coverage is being sought.

#### **Declination of Coverage**

Ironshore respectfully disclaims coverage in this matter subject to the terms, conditions, exclusions and limits of the Ironshore policy, and the applicable law. Lukestar Corp. dba Champion Masonry completed their work on this project prior to inception of the policy. Therefore, coverage would not be triggered due in part to the Continuous or Progressive Injury or Damage Exclusion.

#### SECTION I - COVERAGES

## COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

- 1 Insuring Agreement
  - A. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:
    - (1) The amount we will pay for damages is limited as described in Section III - Limits of Insurance; and
    - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A, B. and C.

- B. This Insurance applies to "bodily injury" and "property damage" only if:
  - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and

ISIC 3727

To: Lukestar Corp. dba Champion Masonry
Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.
Date: August 6, 2013

- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

The Ironshore policy contains the following pertinent definitions:

#### SECTION V - DEFINITIONS

- 13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 14. "Products-completed operations hazard"
  - a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodlly injury" or "property damage" arising out of:
  - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;

**ISIC 3728** 

To: Lukestar Corp. dba Champion Masonry

Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.

Date: August 6, 2013

- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products completed operations are subject to the General Aggregate Limit.
- 17. "Property Damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.
- 21. "Your Products":
  - a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
      - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- 22 "Your work":
  - a. Means:
    - (1) Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.

The Ironshore policy contains the following pertinent Exclusions:

- 2. Exclusions
- j. Damage to Property
  - (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

ISIC 3729

To: Lukestar Corp. dba Champion Masonry
Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.
Date: August 6, 2013

(6) That particular part of any property that much be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage to Premises Rented To You as described in Section III – Limits of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

This insurance does not apply to:

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

I. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended

n. Recall Of Products, Work Or Impaired Property

**ISIC 3730** 

- To: Lukestar Corp. dba Champion Masonry
- Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.

Date: August 6, 2013

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

1.1

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

## Who Is An Insured

# SECTION II WHO IS AN INSURED, states:

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- 2 Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

**ISIC 3731** 

- To: Lukestar Corp. dba Champion Masonry
- Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.
- Date: August 6, 2013

However, none of these "employees" or "volunteer workers" are insureds under this policy with respect to:

- (1) "bodily injury" or "personal and advertising injury":
  - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a, co-employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
  - (b) To the spouse, child, parent, brother or sister of that co "employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.

The Ironshore policy also includes the (IB.EX.014B 7/08Ed) endorsement below:

# CONTINUOUS OR PROGRESSIVE INJURY OR DAMAGE EXCLUSION

This endorsement modifies insurance provided under the following:

## COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any "bodily injury' or "property damage":

- 1. which first existed, or is alleged to have first existed, prior to the inception date of this policy. "Property damage" from "your work", or the work of any additional insured, performed prior to policy inception will be deemed to have first existed prior to the policy inception, unless such "property damage" is sudden and accidental and takes place within the policy period; or
- which was, or is alleged to have been, in the process of taking place prior to the inception date of this policy, even if the such "bodily injury" or "property damage" continued during this policy period; or
- 3. which is, or is alleged to be, of the same general nature or type as a condition, circumstance or construction defect which resulted in "bodily injury" or "property damage" prior to the inception date of this policy.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

All other terms, conditions and exclusions remain unchanged.

To: Lukestar Corp. dba Champion Masonry
Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.
Date: August 6, 2013

Ironshore respectfully declines coverage based upon the Continuous or Progressive Injury or Damage Exclusion. Paragraph (1) of the Continuous Damage Exclusion provides that (a) property damage from the insured's work performed prior to the policy period will be deemed to have existed prior to the policy period and (b) there is no coverage for property damage which first existed or is alleged to have existed prior to inception of the policy. Here, the dates for Lukestar Corp. dba Champion Masonry's work at the subject properties are all prior to the policy period, the Continuous Damage Exclusion operates to exclude coverage where Lukestar Corp. dba Champion Masonry's work was performed prior to the policy period.

Paragraph (1) of the Continuous Damage Exclusion contains an exception to the exclusion for property damage that is sudden and accidental and takes place within the policy period. It is Lukestar Corp. dba Champion Masonry's or The Developers of Nevada, LLC's burden to show the claim falls within the exception to the exclusion.

Another important aspect of the Ironshore policy is the endorsement below:

# THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

## SCHEDULE

## Description and Location of Operation(s):

## All Operations:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement)

The following exclusion is added to paragraph 2., Exclusions of Coverage A - Bodily Injury and Property Damage Liability (Section I - Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the Schedule of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

1) Provides coverage identical to that provided by this Coverage Part;

- 2) Has limits adequate to cover all claims; or
- 3) Remains in effect.

To: Lukestar Corp. dba Champion Masonry
Re: Novea Marcel, et al. v. The Developers of Nevada, LLC, et al.
Date: August 6, 2013

All other terms, conditions and exclusions remain unchanged.

### Conclusion

Based on our review of the materials and information submitted regarding the subject construction project, Ironshore must respectfully decline coverage for this claim. Our reasons for this conclusion include:

- The claims made do not fall within the scope of the insuring agreement as discussed above; and
- The project was completed by Lukestar Corp. dba Champion Masonry prior to the Ironshore policy's issue date and given the nature of the allegations is excluded under the Continuous or Progressive Injury or Damage Exclusion.

Our reasons for denying your claim as stated in this correspondence, while comprehensive are not necessarily exhaustive, or complete. Ironshore specifically reserves the right to supplement, modify or change its reasons for limiting, or denying coverage under any terms conditions, or provisions of the policy as issued regardless of whether those provisions or reasons are now known, or stated herein. If you believe this denial of coverage is in error, Ironshore would appreciate any new or different information you have regarding our analysis or conclusions as stated herein. Ironshore stands willing to review any information or analysis you wish to provide Ironshore regarding this coverage position. Ironshore reserves the right to review the coverage position again, and change or add to it, should additional facts come to Ironshore's attention.

It is expressly understood that any further action undertaken by Ironshore in the investigation or the handling this action shall not be construed as a waiver of the rights of Ironshore to deny coverage under Lukestar Corp. dba Champion Masonry's policy.

Ironshore reserves the right to commence and prosecute any legal action including but not limited to a declaratory relief action to obtain a judicial determination of whether the policies afford coverage for any of the claims made or damages sought in this matter.

Note: We appreciate receiving all information electronically whenever possible. Please reference our file number on all correspondence and in the event you cannot respond electronically, please respond to the undersigned using the contact information on the first page letterhead.

Yours very truly,

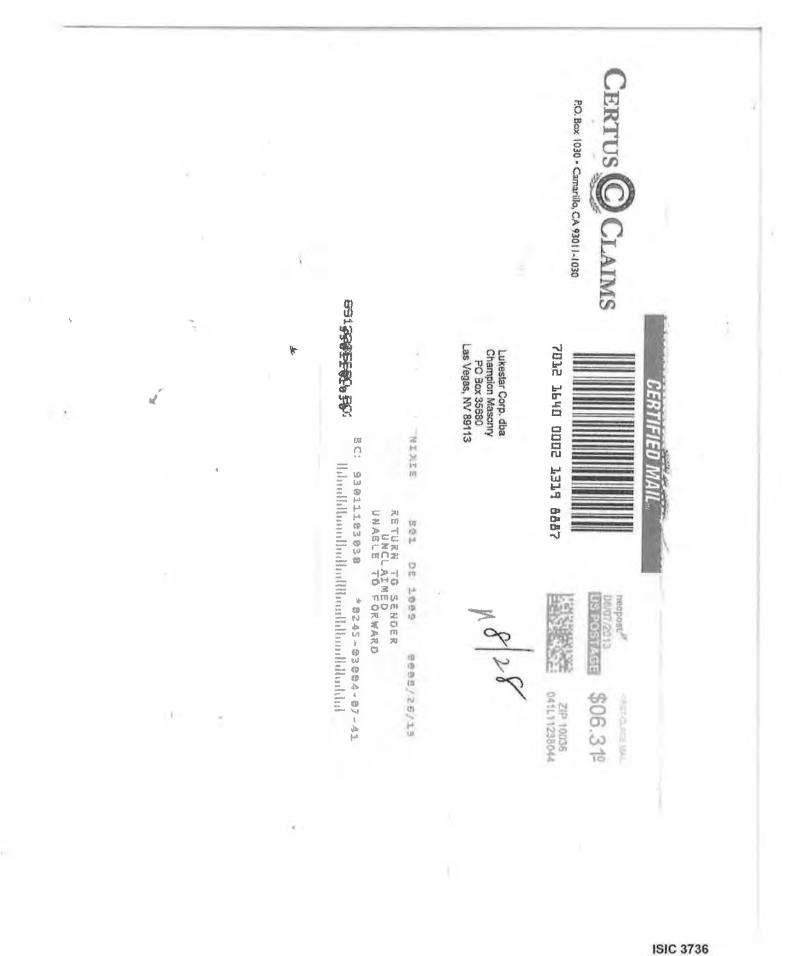
Canutal mathews

Crystal Mathews Certus Claims Administration, LLC Claims Examiner <u>cmathews@certusclaims.com</u> (805) 987-8803

CM/rw

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**ISIC 3735** 



C Agent C. Date of Delivery C Express Mail C Return Receipt for Merchandise C.O.D. 102396-05-14-1540 D. Is dolivery address different from item 1? 
 Yes
 If YES, enther delivery address below: 
 Do **D** Yes COMPLETE THIS SECTION ON DELIVERY 4. Restricted Defivery? (Extra Fee) B. Received by ( Printed Name) 7012 1640 0002 1319 8887 L Soffice Type Certified Mail C Registered C Insured Mail A. Signature 5 A DESTRUCTION OF A DESTRUCTUA DE Domestic Return Receipt × 3 Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Printyour name and address on the reverse so that we can return the card to you. Attach this pard to the back of the melipiece, or on the front if space permits. RUF: 131758 SENDER: COMPLETE THIS SECTION PO Box 35680 Las Vegas, NV 89113 Lukestar Corp. dba Champion Masonry PS Form 3811, February 2004 2. Article Number (Transfer from service label) 1. Article Addressed to:

3.11

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# EXHIBIT 115 (Part 1)

Ironshore policy no. IRH 00V6P085001 (with the premium amount redacted), issued to R.A.M.M. Corporation, for the policy period of November 15, 2008, to November 15, 2009

Part 1 (ISIC 3776-3804)

| nove commence and the second |  |
|--|--|
| UNIT   | ED SPECIALTY INSURANCE COMPANY   |
|  | A Delaware Stock Insurer   |
|  | 8200 Anderson Boulevard  |
|  | Fort Worth, TX 76120   |
|  |  |
|  | (877) 476-6411   |
| under the supervision of the Divisio   | rsuant to the Nevada insurance laws by an insurer neither licensed by nor<br>in of insurance of the Department of Business and Industry of the State of<br>lvent, a claim under this contract is not covered by the Nevada Insurance |
| COMME  | RCIAL GENERAL LIABILITY DECLARATIONS   |
| Policy Number: IRH 00V6P0805001  |  |
| IN RETURN FOR THE PAYMENT OF THE WITH YOU TO PROVIDE THE INSURAN   | PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS COVERAGE PART, WE AGREE<br>CE AS STATED IN THIS POLICY.  |
| 1. Named Insured & Mailing Address:  |  |
| R A M M Corporation  |  |
| 3348 Bucyrus Erie  |  |
| N. Las Vegas, NV 89030   |  |
|  |  |
| 2. Policy Period:  |  |
| Inception November 15, 200   |  |
| Expiration November 15, 200  | 9 at 12:01 a.m. standard time at your address shown above.   |
| 3. Form of Business: Contractor  |  |
| 4. Limits of Insurance:  |  |
| \$ 1,000,000 Each Occurre  | ince   |
| \$ 2,000,000 General Aggr  |  |
|  | ompleted Operations Aggregate  |
| \$ 1,000,000 Personal and  | Advertising Injury   |
| \$ 50,000 Fire Damage  |  |
| 5. Deductible: \$10,000  | BI & PD & PI/AI, Per Occurrence, Including LAE   |
| 6. Coverage Part Premium Calculation:  |  |
| Coverage Part Premium:   |  |
| Inspection Fee:  | REDACTED   |
| Terrorism Premium:   |  |
| Coverage Part Total:   |  |
| 1969 - C.  | PREMIUM IS MINIMUM AND DEPOSIT   |
| 7. Audit Period: Annual  |  |
| 8. Endorsements Attached To This Polic   | y: See Schedule of Forms and Endorsements.   |
| 1. IB.EX.003 Common Policy Cond  | itions   |
| 2. IB.EX.006 Amended Insured Col   | ntract Definition  |
| 3. IB.EX.007 Amendment of Premi  |  |
| 4. IB.EX.009 Basis of Premium  |  |
| 10 EV 003 /43 /035 - 1   |  |
| 10.EX.UU2 (12/U/Ed.)   | Page 1 of 3  |
| IB.EX.002 (12/07Ed.)   | Page 1 of 3  |

**ISIC 3776** 

Policy Number: 00V6P0805001

- 5. IB.EX.010 Claims Notification
- 6. IB.EX.012 Deductible Liabiability Insurance
- 7. IB.EX.013 Asbestos Exclusion
- 8. IB.EX.014B Continuous or Progressive Injury Exclusion (2008 Edition)
- 9. IB.EX.015 Contractors Professional Liability
- 10. IB.EX.018 Employment-Related Practices Exclusion
- 11. IB.EX.019 Exterior Insulation and Finish Systems Exclusion
- 12. IB.EX.022 Influenza or Epidemic Exclusion
- 13. IB.EX.023 Lead Contamination Exclusion
- 14. IB.EX.025 Coverage C Medical Payments
- 15. IB.EX.026 Mold, Fungi or Bacteria Exclusion
- 16. IB.EX.027 Nuclear Energy Liability Exclusion
- 17. IB.EX.028 Silica or Silica-Related Dust Exclusion
- 18. IB.EX.030 Terrorism Exclusion
- 19. IB.EX.031 Total Pollution Exclusion
- 20. IB.EX.032 Violation of Statutes that Govern Emails Fax Phone Calls Or Other Methods Of Sending Material Or Information
- 21. IB.EX.033 Designated Operations Covered By A Consolidated (Wrap-Up) Insurance Program
- 22. IB.EX.034 Independent Contractors Limitation of Coverage
- 23. IB.EX.037 Service of Suit
- 24. IB.EX.041 Waiver of Transfer of Rights of Recovery Against Others To Us
- 25. IB.EX.008 Automatic Status (08edition)
- 26. IB.EX.016 Designated Work Exclusion
- 27. IB.EX.011 Designated Construction Project(s)
- 28. IB.EX.060 Additional Insured Completed operations

9. Producer & Mailing Address

Travis Pedersen and Associates 525 W. Van Buren Street Suite 1450 Chicago, IL 60607

License Number: 8592

10. Surplus Lines Broker & Mailing Address: Leavitt Insurance Agency 7881 W. Charleston Blvd. #140 Las Vegas, NV 89117

License Number: 29899

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

**Authorized Representative** 

December 23, 2008 Date

IB.EX.002 (12/07Ed)

Page 2 of 3

**ISIC 3777** 

# Case 2:15-cv-00460-JAD-PAL Document 44-10 Filed 09/19/16 Page 4 of 30

| LOCATION | CLASSIFICATION   |                |               | 1         |     | **                 | A mt / A stm     | T INFR PART AND |
|----------|------------------|----------------|---------------|-----------|-----|--------------------|------------------|-----------------|
| NUMBER   |                  | CODE<br>NO.    | BASE          | Prem/     | RAT | E<br>rod/Comp      | ADVANCI<br>Prem/ | Prod/Comp       |
| nomben   |                  |                |               | Ops       | 1   | Ops                | - Ops            | Ops             |
|          | Grading          | 95410 (2B)     | \$4,000,000   |           |     | REDA               | CTED             |                 |
| 21       | TERMS, CONDITION | IS AND EXCLUSI | ONS REMAIN UN | NCHANGED. | N   | ovember 24,<br>ate | 2008             |                 |
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**ISIC 3778** 

## UNITED SPECIALTY INSURANCE COMPANY A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

POLICY#: IRH 00V6P0805001

# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II -- Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V --Definitions.

SECTION I – COVERAGES COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

- 1. Insuring Agreement
  - a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:
    - (1) The amount we will pay for damages is limited as described in Section III Limits Of Insurance; and
    - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

b.This insurance applies to "bodily injury" and "property damage" only if:

- The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
  - Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

Page 1 of 14

IB.EX.001(12/07 Ed.)

ISIC 3779

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### 2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.
- c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

#### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- An "employee" of the insured arising out of and in the course of;
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph {1} above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

- f. Pollution
  - (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
    - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
      - (I) "Bodlly injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
      - (II) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

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- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible; or
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment<sup>#</sup> or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the Intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
  - (II) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
  - Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire",

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
  - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

#### g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any alrcraft, "auto" or water-craft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 26 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

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- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
  - (b) the operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".
- h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.
- i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### j. Damage To Property

"Property damage" to:

- Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

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- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

I. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "productscompleted operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

#### n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

## COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
  - The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
  - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

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No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

#### 2. Exclusions

This insurance does not apply to:

#### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the Insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

 Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds in Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

#### k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

#### I. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

(1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

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- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### **COVERAGE C MEDICAL PAYMENTS**

- 1. Insuring Agreement
  - We will pay medical expenses as described below for "bodily injury" caused by an accident:
    - (1) On premises you own or rent;
    - (2) On ways next to premises you own or rent; or
    - (3) Because of your operations;

provided that:

- The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.
- 2. Exclusions
  - We will not pay expenses for "bodily injury":
  - a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athietics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

- Froducts-Completed Operations Hazard Included within the "products-completed operations hazard".
- g. Coverage A Exclusions

Excluded under Coverage A.

#### SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

- We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
  - e. All costs taxed against the insured in the "sult".
  - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

 If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

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- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
  - (1) Agrees in writing to:
    - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (c) Notify any other insurer whose coverage is available to the indemnitee; and
    - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (2) Provides us with written authorization to:
    - (a) Obtain records and other information related to the "suit"; and
    - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

#### SECTION II - WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- 2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
    - "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
      - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
      - (d) Arising out of his or her providing or failing to provide professional health care services.

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- (2) "Property damage" to property:
  - (a) Owned, occupied or used by,
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- Any person or organization having proper temporary custody of your property if you die, but only:
  - With respect to liability arising out of the maintenance or use of that property; and
  - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- 3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named insured in the Declarations.

#### SECTION III -- LIMITS OF INSURANCE

- The Limits of insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
- 2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.
- The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
- 4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
- Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A; and

b. Medical expenses under Coverage C

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

- 6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
- Subject to 5, above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

- 2. Duties In The Event Of Occurrence, Offense, Claim Or Sult
  - a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
    - How, when and where the "occurrence" or offense took place;
    - (2) The names and addresses of any injured persons and witnesses; and

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- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
  - Immediately record the specifics of the claim or "suit" and the date received; and
  - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:
  - Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b**, below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c**, below.

#### b. Excess Insurance

This insurance is excess over:

- Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
  - (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
  - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
  - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "sult" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

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If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

## 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

#### 6. Representations

By accepting this policy, you agree:

- The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.
- 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.
- 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is malled, proof of mailing will be sufficient proof of notice.

#### SECTION V - DEFINITIONS

- "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - Notices that are published include material placed on the internet or on similar electronic means of communication; and
  - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
- 2. "Auto" means:
  - A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

- "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
- 4. "Coverage territory" means:
  - The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
  - All other parts of the world if the injury or damage arises out of;
    - Goods or products made or sold by you in the territory described in a. above;
    - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
    - (3) "Personal and advertising injury" offenses that take place through the internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a above or in a settlement we agree to.

- "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

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- "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;
  - if such property can be restored to use by:
  - The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.9. "Insured contract" means:
- 5. Insureu contract means:
  - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement;
  - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or Instructions, or failing to give them, if that is the primary cause of the injury or damage; or

- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
- 10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- 11. "Loading or unloading" means the handling of property:
  - After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - b. While it is in or on an aircraft, watercraft or "auto"; or
  - While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

- 12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
  - Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - Power cranes, shovels, loaders, diggers or drills; or
    - Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
  - Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

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However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos",

- 13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
  - 14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
    - a. False arrest, detention or imprisonment;
    - b. Malicious prosecution;
    - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
    - Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
    - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
    - f. The use of another's advertising idea in your "advertisement"; or
    - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
  - 15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

 Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
  - (a) When all of the work called for in your contract has been completed.
  - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
  - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:
  - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
  - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
  - (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.
- 17. "Property damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

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- An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 21. "Your product":
  - a. Means:
    - Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- b. Includes
  - Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
  - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 22. "Your work":
  - a. Means:
    - Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.
    - b. Includes
      - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
      - (2) The providing of or failure to provide warnings or instructions.

United Specialty Insurance Company by:

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**ISIC 3792** 

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## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 475-6411

## Endorsement # 1

Policy Number: IRH 00V6P0805001

Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

- A) Cancellation
  - The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
  - We may cancel this policy by mailing or delivering to the first Named insured written notice of cancellation at least;
    - a) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
    - b) 30 days before the effective date of cancellation if we cancel for any other reason.
  - We will mail or deliver our notice to the first Named insured's last mailing address known to us.
  - Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
  - 5) If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
  - 6) If notice is mailed, proof of mailing will be sufficient proof of notice.
- B) Changes

- C) This policy contains all the agreements between you and us concerning the insurance afforded. The first Named insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.
- D) Examination Of Your Books And Records
- E) We may examine and audit your books and re-cords as they relate to this policy at any time during the policy period and up to three years after-ward.
- F) Inspections And Surveys
  - 1) We have the right to:
    - a) Make inspections and surveys at any time;
    - b) Give you reports on the conditions we find; and
    - c) Recommend changes.
  - 2) We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any per-son or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
    - a) Are safe or healthful; or
    - b) Comply with laws, regulations, codes or standards.
  - Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate

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service or similar organization which makes insurance inspections, surveys, reports or recommendations.

- 4) Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.
- G) Premiums
- H) The first Named Insured shown in the Declarations:
  - 1) Is responsible for the payment of all premiums; and

- Will be the payee for any return premiums we pay.
- I) Transfer Of Your Rights And Duties Under This Policy
- Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.
- K) If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

2.

**Authorized Representative** 

November 24, 2008 Date

IB.EX.003 (12/07Ed.)

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**ISIC 3794** 

## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

## Endorsement # 2

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AMENDMENT OF INSURED CONTRACT DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph 9. of the Definitions Section is replaced by the following:

9 "Insured contract" means:

- a) A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b) A sidetrack agreement;
- c) Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e) An elevator maintenance agreement;
- f) That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- 1 That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing:
- 2 That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or dam-age; or
- 3 Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

ALL OTHER TERMS CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3795** 

## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 475-6411

#### Endorsement # 3

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AMENDMENT OF PREMIUM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph 5. of SECTION IV -- CONDITIONS is replaced by the following:

This insurance does not apply to any "bodily injury" or "property damage":

- 5 Premium Audit
  - a) We will compute all premiums for this Policy in accordance with our rules and rates.
  - b) Premium shown in this Policy is the advance premium for the policy term. If the final audit develops a premium less than the advance premium, a minimum premium of will be retained by us. If the final audit develops a premium greater than the advance premium, additional premium shall be due and payable to us on notice to the first Named Insured.
  - c) The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.
  - d) In the event you cancel this Policy, a minimum premium of \_\_\_\_\_\_or the applicable pro-rata/short rate earned premium, whichever is greater, will be retained by us.
- 9 Your failure to pay premium when due shall be considered a request by the first Named Insured or their appointed authority for us to cancel. In the event of such cancellation for non-payment of premium the minimum premium shall be due and payable.
- 7 We have the right, but are not obligated, to rescind our cancellation notice if the premium is received prior to the effective date of cancellation.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

REDACTED

November 24, 2008 Date

Authorized Representative

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**ISIC 3796** 

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## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

## Endorsement # 4

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **BASIS OF PREMIUM ENDORSEMENT**

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed that SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following definitions of basis of premium used for computing premiums for this coverage:

Gross Sales or Receipts is defined as the gross amount charged by the named insured, concessionaires of the named insured, or by others trading under the insured's name for:

- a. All goods or products, sold or distributed;
- b. Operations performed during the policy period;
- c. Rentals; and
- d. Dues or fees.

Only the following items shall be deducted from Gross Sales or Receipts:

- 1. Sales or excise taxes which are collected and remitted directly to a governmental division;
- 2. Credits for repossessed merchandise and products returned.

Payroll or Remuneration is defined as the sum of salaries, wages, tips, piece of work, commission, bonuses, board and meals for work performed and excluding excess in accordance with the state payroll limitation rules.

Overtime is defined as hours worked at increased rates of pay in excess of hours normally worked in a given day or week. If there is a guaranteed wage plan which assures employees a given wage for working a specific number of hours per week, then the overtime means only the hours worked in excess of that specific amount. If there are records available showing the wages paid for overtime separately, which exceed the amount that would have been paid for the same work during normal hours, then all such excess wages are excluded. If these records show only the total of wages paid, including overtime on a time and one-half basis, then ore-third of those wages should be excluded. If double time is paid for overtime and the total pay for such overtime is recorded separately, one-half of the total pay for double time shall be excluded.

Excluded from payroll is remuneration paid to clerical office employees, including those whose duties are strictly limited to keeping the insured's books or records, conducting correspondence, or engaged in clerical work in these areas. Anyone who does not work in the area separated physically by walled floors, or partitions from all other work areas of

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**ISIC 3797** 

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the insured is not considered. An exception to this is if the payroll or clerical office employees are specifically included in the classification wording or footnote of the ISO general liability classification.

Total Cost or Cost is defined as the total cost of all work, let or sublet in connections with each specific project including: a. The cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work; and b. All fees, bonuses or commissions made, paid or due.

Units is defined as the number of persons or items described.

Rental Receipts is defined as the gross amount charged by the named insured, concessionaires of the named insured, or by others trading under the insured's name for rental of equipment.

Admissions is defined as the total number of persons, other than employees of the named insured, admitted to an event or events conducted on the premises, whether on paid admission, tickets, complimentary tickets, or passes.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

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Authorized Representative

November 24, 2008 Date

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**ISIC 3798** 

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## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 475-6411

## Endorsement # 5

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **CLAIMS NOTIFICATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Send all claim notifications and information to:

MIDLANDS CLAIM PO Box 23198 Oklahoma City, OK 73123 Phone: 1-800-498-9758 Fax: 405-840-0584 Website: www.midlandsclaim.com

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

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Authorized Representative

November 24, 2008 Date

IB.EX.010 (12/07Ed.)

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**ISIC 3799** 

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## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

## Endorsement # 6

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **DEDUCTIBLE LIABILITY INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

|                                    | SCHEDULE      |                   |
|------------------------------------|---------------|-------------------|
| Coverage                           | Amount and Ba | sis of Deductible |
| Bodily Injury Liability            | \$N/A         | per claim         |
|                                    | \$N/A         | per occurrence    |
|                                    |               |                   |
| Property Damage Liability          | \$N/A         | per claim         |
|                                    | \$N/A         | per occurrence    |
|                                    |               |                   |
| Bodily Injury Liability and/or     | \$N/A         | per claîm         |
| Property Damage Liability Combined | \$10,000      | per occurrence    |
|                                    |               |                   |
| Personal Injury Liability          | \$10,000      | per injury        |
| a. b                               | \$10.000      | AP INICOL         |
| Advertising Injury Liability       | \$10,000      | per injury        |

APPLICATION OF ENDORSEMENT (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury", "personal injury", "advertising injury", or "property damage", however caused):

 Our obligation under the Bodily Injury Liability, Personal Injury Liability, Advertising Injury Liability, and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages, and the limits of insurance applicable to such coverages will be reduced by the amount of such deductible. "Aggregate" limits for such coverage shall not be reduced by the application of such deductible amount.

- The deductible amounts stated in the Schedule apply as follows:
  - a. PER CLAIM BASIS if the deductible is on a "per claim" basis, the deductible amount applies:
    (1) Under Bodily Injury Liability or Property
    - Damage Liability Coverage respectively:

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**ISIC 3800** 

- a. to all damages because of "bodily injury" sustained by one person, or
- b. to all damages because of "property damage" sustained by one person or organization,

as a result of any one "occurrence."

- (2) Under Bodily Injury Liability and Property Damage Liability Coverage Combined to all damages because of "bodily injury" and "property damage" sustained by one person or organization as the result of any one "occurrence."
- PER OCCURRENCE BASIS if the deductible is on a "per occurrence" basis the deductible amount applies:
  - (1) Under Bodily Injury Liability or Property Damage Liability Coverage, respectively:
    - a. to all damages because of "bodily injury" as the result of any one "occurrence," or
    - b. to all damages because of "property damage" as the result of any one "occurrence,"

regardless of the number of persons or organizations who sustain damages because of that "occurrence".

(2) Under Bodily Injury Liability and Property Damage Liability Coverage Combined to all damages because of "bodily injury" and "property damage" as the result of any one "occurrence regardless of the number of persons or organizations who sustain damages because of that "occurrence."

- PER INJURY BASIS if the deductible is on a "perinjury" basis the deductible amount applies:
  - Under the Personal Injury Liability Coverage to all damages because of "personal injury" sustained by one person or organization as a result of any one injury.
  - (2) Under the Advertising Injury Liability Coverage to all damages because of "advertising injury" sustained by one person or organization as a result of any one injury.
- The deductible amount stated shall also apply towards the investigation, adjustment and legal expenses incurred in the handling and investigation of each claim, whether or not payment is made to any claimant, comprise settlement is reached, or the claim is denied.
- The terms of this insurance, including those with respect to:
  - (a) Our right and duty to defend any "suits" seeking those damages; and
  - (b) Your duties in the event of an "occurrence," claim, or suit

apply irrespective of the application of the deductible amount.

5. We may pay any part or all of the deductible amount towards investigation, adjustment and legal expense, or to effect settlement of any claim or suit and, upon notification of such payment, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3801** 

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## UNITED SPECIALTY INSURANCE COMPANY

A Defaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

## Endorsement # 7

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ASBESTOS EXCLUSION

This endorsement modifies insurance provided under the following: COMMERCIAL GENERAL LIABILITY COVERAGE PART OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART RAILROAD PROTECTIVE LIABILITY COVERAGE PART BUSINESSOWNERS LIABILITY COVERAGE PART

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below:

(The following needs to be completed only when this endorsement is issued subsequent to inception of the policy.) Named Insured R A M M Corporation

| Endorsement Effective | Policy Number    |
|-----------------------|------------------|
| November 15, 2008     | IRH 00V6P0805001 |
|                       |                  |

This insurance does not apply to:

- A) "Bodily injury", "property damage" or "personal and advertising injury", in whole or in part, either directly or indirectly arising out of, based upon or attributable to any of the following:
  - 1. Asbestos or any asbestos related injury or damage; or
  - any alleged act, error, omission or duty involving asbestos, its use, exposure, presence, ingestion, inhalation, absorption, existence, detention, removal, elimination or avoidance; or
  - the use, exposure, presence, ingestion, inhalation, absorption, existence, detention, removal, elimination or avoidance of asbestos in any environment, building or structure; and
- B) The investigation, settlement or defense of any claim, "suit" or proceeding against the insured alleging any actual or

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**ISIC 3802** 

# Case 2:15-cv-00460-JAD-PAL Document 44-10 Filed 09/19/16 Page 29 of 30

threatened injury or damage which arises out of or would no: have occurred but for asbestos "bodily injury", "property damage" or "personal and advertising injury", as described above.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

2

Authorized Representative

November 24, 2008 Date

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**ISIC 3803** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 8

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CONTINUOUS OR PROGRESSIVE INJURY OR DAMAGE EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any "bodily injury" or "property damage":

- which first existed, or is alleged to have first existed, prior to the inception of this policy. "Property damage" from "your work", or the work of any additional insured, performed prior to policy inception will be deemed to have first existed prior to the policy inception, unless such "property damage" is sudden and accidental and takes place within the policy period); or
- 2. which was, or is alleged to have been, in the process of taking place prior to the inception date of this policy, even if the such "bodily injury" or "property damage" continued during this policy period; or
- 3. which is, or is alleged to be, of the same general nature or type as a condition, circumstance or construction defect which resulted in "bodily injury" or "property damage" prior to the inception date of this policy.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3804** 

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# EXHIBIT 115 (Part 2)

Ironshore policy no. IRH 00V6P085001 (with the premium amount redacted), issued to R.A.M.M. Corporation, for the policy period of November 15, 2008, to November 15, 2009

Part 2 (ISIC 3805-3830)

## Case 2:15-cv-00460-JAD-PAL Document 44-11 Filed 09/19/16 Page 2 of 27

#### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 9

Effective Date of Endorsements: November 15, 2008 Policy Number: IRH 00V6P0805001

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION – CONTRACTORS – PROFESSIONAL LIABILITY**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability and Paragraph 2., Exclusions of Section I -- Coverage B -- Personal And Advertising Injury Liability:

- 1. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:
  - a. Providing engineering, architectural or surveying services to others in your capacity as an engineer, architect or surveyor; and
  - b. Providing, or hiring independent. professionals to provide, engineering, architectural or surveying services in connection with construction work you perform.

- 2. Subject to Paragraph 3. below, professional services include:
  - a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, re-ports, surveys, field orders, change orders, or drawings and specifications; and
  - b. Supervisory or inspection activities performed as part of any related architectural or engineering activities.
- 3. Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

ALL OTHER TERMS/CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

3)

**Authorized Representative** 

IB.EX.015 (12/07Ed.)

November 24, 2008 Date

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**ISIC 3805** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 10

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability: This insurance does not apply to: "Bodily injury" to:
  - (1) A person arising out of any:
    - (a) Refusal to employ that person;
    - (b) Termination of that person's employment; or
    - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
  - (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed. This exclusion applies:

  - (1) Whether the insured may be liable as an employer or in any other capacity; and
  - (2) To any obligation to share damages with or repay someone else who must pay dam-ages because of the injury.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability: This insurance does not apply to: "Personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay dam-ages because of the injury.

November 24, 2008 Date

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**ISIC 3806** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 11

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION – EXTERIOR INSULATION AND FINISH SYSTEMS**

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of, caused by, or attributable to, whether in whole or in part, the following:
  - The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any "exterior insulation and finish system" or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or
  - "Your product" or "your work" with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system", or any substantially similar

sys-tem, is used on the part of that structure containing that component, fixture or feature.

- B. The following definition is added to the Definitions Section:
- C. "Exterior insulation and finish system" means a nonload bearing exterior cladding or finish sys-tem, and all component parts therein, used on any part of any structure, and consisting of:
  - A rigid or semi-rigid insulation board made of expanded polystyrene and other materials;
  - The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
  - 3. A reinforced or unreinforced base coat;
  - A finish coat providing surface texture to which color may be added; and
  - 5. Any flashing, caulking or sealant used with the system for any purpose.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3807** 

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#### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 12

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## INFLUENZA OR EPIDEMIC EXCLUSION

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below:

(The following needs to be completed only when this endorsement is issued subsequent to inception of the policy.) Named insured

| R A M M Corporation   |                  |
|-----------------------|------------------|
| Endorsement Effective | Policy Number    |
| November 15, 2008     | IRH 00V6P0805001 |

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury", loss or damage, or cost or expense arising out of, caused by or resulting from, directly or indirectly:

- A The:
  - 1. infection or feared or suspected infection with;
  - 2. diagnosis of or treatment for, or failure to diagnose or treat;
  - 3. guarantine for or attempted containment of, or failure to guarantine or contain;
  - 4. presence or detection of, or failure to detect;
  - 5. prevention of or vaccination against, or failure to prevent or vaccinate;
  - 6. restrictions on travel due to, or failure to restrict travel due to; or
  - 7. declaration of an epidemic or pandemic due to, or failure to declare an epidemic or pandemic due to;

any type of influenza virus, including but not limited to types A, B or C virus, any subtype or strain of the influenza A, B or C virus (including but not limited to the H5 and H7 subtypes), any similar or related influenza or virus, or any derivation from, reassortment, or mutation (occurring either naturally or through human intervention) of the influenza A, B or C virus, including but not limited to a human influenza virus.

B Any epidemic, pandemic, pandemic alert or outbreak (or other term of similar meaning) that is declared, announced or otherwise notified by the U.S. Center for Disease Control and Prevention (as such is reported in the Morbidity and Mortality Weekly Report), World Health Organization, or any national, state or local public health organization (or organization acting in a similar capacity).

Exclusion of the epidemic or pandemic infectious disease shall begin as of the date of such announcement or notification and shall continue until the termination date of such epidemic or pandemic; provided, however, that this exclusion shall

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**ISIC 3808** 

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continue to apply to any individual case of epidemic or pandemic infectious disease contracted during the exclusionary period that continues beyond the termination date.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

27-

Authorized Representative

November 24, 2008 Date

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**ISIC 3809** 

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### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 13

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LEAD CONTAMINATION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART RAILROAD PROTECTIVE LIABILITY COVERAGE PART BUSINESSOWNERS LIABILITY COVERAGE PART

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below:

(The following needs to be completed only when this endorsement is issued subsequent to inception of the policy.)

| Named Insured                              |                                  |
|--|----------------------------------|
| R A M M Corporation                        |                                  |
| Endorsement Elfective<br>November 15, 2008 | Policy Number<br>00V5P0805001IRH |

This insurance does not apply to:

- A "Bodily injury", "property damage" or "personal and advertising injury" in whole or in part, either directly or indirectly, arising out of, based upon or attributable to any of the following:
  - The use, installation, storage, withdrawal, removal, encapsulation, destruction, containment, testing, distribution, ownership, presence, ingestion, inhalation, absorption, sale or disposal of lead, lead dust, lead fibers or material containing lead;
  - 2. Exposure to lead, lead dust, lead fibers or material containing lead; or
  - Any error or omission in supervision, instructions, recommendations, notices, warnings or advice given, or which should have been given, in connection with lead, lead dust, lead fibers or material containing lead.

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**ISIC 3810** 

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8 The investigation, settlement or defense of any claim, "suit" or proceeding against the insured alleging any actual or threatened injury or damage which arises out of or would not have occurred but for lead "bodily injury", "property damage" or "personal and advertising injury", as described above.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3811** 

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## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 14

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION – COVERAGE C – MEDICAL PAYMENTS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description And Location Of Premises Or Classification:

Any and All Locations.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to any premises or classification shown In the Schedule:

- Section I ~ Coverage C Medical Payments does not apply and none of the references to it in the Coverage Part apply: and
- The following is added to Section I Supplementary Payments:
  - Expenses incurred by the insured for first aid administered to others at the time of an accident for "bodily injury" to which this insurance applies.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

2)

**Authorized Representative** 

November 24, 2008 Date

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**ISIC 3812** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 475-6411

#### Endorsement # 15

Effective Date of Endorsements: November 15, 2008 Policy Number: IRH 00V6P0805001

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## MOLD. FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Notwithstanding anything to the contrary contained in the policy or any endorsement attached thereto, this insurance does not apply to and shall not respond to any claim, demand or "suit" alleging:

- "Bodily Injury," "Property Damage" or "Personal and Advertising Injury" arising out of, in whole or In part, the 1 actual, alleged or threatened discharge, inhalation, ingestion, dispersal, seepage, migration, release, escape or existence of any mold, mildew, bacteria or fungus, or any materials containing them, at any time.
- 2 Any loss, cost or expense arising out of any:
  - a. Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of any mold, mildew, bacteria or fungus, or any materials containing them; or
  - b. Claim, demand or "suit" by or on behalf of a governmental authority or any other person or organization for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of any mold, mildew, bacteria or fungus, or any materials containing them.
- An obligation to contribute to, share damages with, repay or indemnify someone else who must pay damages, loss, 3 cost or expense because of "Bodily Injury," "Property Damage" or "Personal and Advertising Injury" as set forth in 1., 2.a., or 2.b. above.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3813** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 16

Policy Number: IRH 00V6P0805001

Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

- 1 The insurance does not apply:
  - A. Under any Liability Coverage, to "bodily injury" or "property damage":
    - (a) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
    - (b) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been is-sued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

- B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
  - (a) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
  - (b) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
  - (c) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

IB.EX.027 (12/07Ed.)

Page 1 of 2

**ISIC 3814** 

- 2 As used in this endorsement:
  - "Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "Special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor". "Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any per-son or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means: (a) Any "nuclear reactor";

(b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";

- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. "Property damage" includes all forms of radioactive contamination of property.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

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**ISIC 3815** 

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## **UNITED SPECIALTY INSURANCE COMPANY**

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 17

Policy Number: IRH 00V6P0805001

Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### SILICA OR SILICA-RELATED DUST EXCLUSION

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

 A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:
 2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
- b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silicarelated dust".
- c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

2. Exclusions This insurance does not apply to: Silica Or Silica-Related Dust

- "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:

1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.

2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

November 24, 2008 Date

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IB.EX.028 (12/07Ed.)

**ISIC 3816** 

Case 2:15-cv-00460-JAD-PAL Document 44-11 Filed 09/19/16 Page 14 of 27

#### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 18

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **TERRORISIM EXCLUSION**

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

We will not pay for loss or damage caused directly or indirectly by "Terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

Where used in this endorsement, "Terrorism" means activities directed against any person, organization or property which activities involve any of the following, or any preparation for, or acts in furtherance of, any of the following (referred to in this endorsement as "Activities"):

- A. The use or threat of force or violence; or
- B. The commission or threat of any dangerous act; or
- C. The commission or threat of any act that interferes with or disrupts any electronic, communication, information, or mechanical system;

and one or both of the following is applicable to A., B., or C. above:

1. The effect or intended effect of the activities described in A., B., or C. above is to intimidate or coerce any government or governmental agency, or the civilian population or any segment thereof, or to disrupt any segment of the economy.

2. The effect or intended effect of the activities described in A., B., or C. above is to further any political, ideological, religious, social or economic objectives or to express (or express opposition to) any philosophy or ideology.

"Terrorism" specifically includes, but is not limited to any Activities that:

- A. Involve the use, release or escape of any nuclear materials, or that directly or indirectly result in nuclear reaction or radiation or radioactive contamination of any kind; or
- Are carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- C. Involve the intentional or deliberate release of any pathogenic or poisonous, biological, or chemical materials.

IB.EX.30 (12/07 Ed.)

Page 1 of 2

**ISIC 3817** 

"Terrorism" also specifically includes any "Certified Act of Terrorism." The term "Certified Act of Terrorism" means any act that is certified by the United States Secretary of the Treasury, in concurrence with the United

States Secretary of State, and the Attorney General of the United States, in accordance with the United States Terrorism Risk Insurance Act of 2002 (the "Act"):

- A. to be an act of terrorism;
- B. to be a violent act or an act that is dangerous to:
  - 1. human life; property; or
  - 2. infrastructure;
- C. to have resulted in damage within the United States, or outside of the United States in the case of:
  - 1. an air carrier or vessel described in paragraph (5)(B) of the Act;
  - 2. or the premises of a United States mission; and
- D. to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

November 24, 2008 Date

IB.EX.30 (12/07 Ed.)

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**ISIC 3818** 

Case 2:15-cv-00460-JAD-PAL Document 44-11 Filed 09/19/16 Page 16 of 27

## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 19

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## TOTAL POLLUTION EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion f. under Paragraph 2., Exclusions of Section ) – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following: This insurance does not apply to:

f. Pollution

- "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.
- 2) Any loss, cost or expense arising out of any:
- a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- b) Claim or suit by or on behalf of a govern-mental authority for damages because of testing for, monitoring, cleaning up, re-moving, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

November 24, 2008 Date

**ISIC 3819** 

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#### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 20

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# EXCLUSION -- VIOLATION OF STATUTES THAT GOVERN E-MAILS, FAX, PHONE CALLS OR OTHER METHODS OF SENDING MATERIAL OR INFORMATION

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I ~ Coverage A ~ Bodily Injury And Property Damage Liability:
  - 2. Exclusions

This insurance does not apply to: DISTRIBUTION OF MATERIAL IN VIOLATION OF STATUTES

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

- B. The following exclusion is added to Paragraph 2., Exclusions of Section 1 – Coverage B – Personal And Advertising Injury Liability:
  - 2. Exclusions

This insurance does not apply to: DISTRIBUTION OF MATERIAL IN VIOLATION OF STATUTES

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

IB.EX.032 (12/07Ed.)

Page 1 of 1

**ISIC 3820** 

Case 2:15-cv-00460-JAD-PAL Document 44-11 Filed 09/19/16 Page 18 of 27

#### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 475-6411

#### Endorsement # 21

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description and Location of Operation(s):

All Operations.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The following exclusion is added to paragraph 2., Exclusions of COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I – Cover-ages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the Schedule of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

- Provides coverage identical to that provided by this Coverage Part;
- 2) Has limits adequate to cover all claims; or
- 3) Remains in effect.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

November 24, 2008 Date

IB.EX.033 (12/07Ed.)

Page 1 of 1

**ISIC 3821** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 22

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## INDEPENDENT CONTRACTORS LIMITATION OF COVERAGE

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any claim, demand or "suit" arising out of operations performed for you by independent contractors unless:

- (1) Such independent contractors have in force, at the time of the subject "occurrence," commercial general liability insurance listing you as an additional insured; and
- (2) The limits of liability of such insurance are equal to or greater than those shown in the schedule below; and
- (3) The insurance described in (1) and (2) above is primary and non-contributory with respect to such "occurrence."

| GENERAL AGGREGATE LIMIT (Other than Products-Completed Operations) | \$2,000,000 |
|--|-------------|
| PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT                      | \$2,000,000 |
| PERSONAL INJURY LIMIT AND ADVERTISING INJURY LIMIT                 | \$1,000,000 |
| EACH OCCURRENCE LIMIT  | \$1,000,000 |

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

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Authorized Representative

November 24, 2008 Date

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**ISIC 3822** 

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## **UNITED SPECIALTY INSURANCE COMPANY**

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 23

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE FOLICY. PLEASE READ IT CAREFULLY.

## SERVICE OF SUIT

All Coverage Parts included in this policy are subject to the following conditions.

#### SERVICE OF SUIT

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Named Insured, will submit to the jurisdiction of any Court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such Court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such court. It is further agreed that service of process in such suit may be made upon:

#### CT Corporation System 1-800-624-0909

or his nominee, and that in any suit instituted against them upon this contract, the Company will ablde by the final decision of such Court of any Appellate Court in the event of an appeal.

The above named individual is authorized and directed to accept service of process on behalf of the Company in any such suit and/or upon the request of the Named Insured to give written undertaking of the Named Insured that it or they will enter a general appearance upon the Company's behalf in the event of a suit shall be instituted.

Further, pursuant to any statute of any State, Territory, or District of the United States of America, which makes provision therefore, the Company hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be service any lawful process in any action, suit or proceeding instituted by or on behalf of the Named Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

November 24, 2008 Date

IB.EX.037 (12/07Ed.)

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**ISIC 3823** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 24

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization: "As required by written contract"

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GEN-ERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

November 24, 2008 Date

IB.EX.041 (12/07Ed.)

**ISIC 3824** 

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411 Endorsement # 25

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II Who is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - 2. The acts or omissions of those acting on your behalf;
  - in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

It is further agreed that such insurance as is afforded by this Policy for the benefits of an additional insured shall be primary.

- With respect to the insurance afforded to these additional insureds, the following additional exclusions apply: This insurance does not apply to:
  - 1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
    - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
    - b. Supervisory, inspection, architectural or engineering activities.
  - 2. "Bodily injury" or "property damage" occurring after:
    - a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
    - b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project; or
    - c. "Property Damage" which manifests after expiration of the Policy.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

November 24, 2008 Date

IB.EX.008 (01/08Ed)

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**ISIC 3825** 

Case 2:15-cv-00460-JAD-PAL Document 44-11 Filed 09/19/16 Page 23 of 27

## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 26

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION - DESIGNATED WORK**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description of your work:

"Your work" Performed prior to November 15, 2008

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

This insurance does not apply to "bodily injury" or "property damage" included in the "products-completed operations hazard" and arising out of "your work" shown in the Schedule.

ALL OTHER TERMS; CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

2

Authorized Representative

November 24, 2008 Date

(B.EX.016 (12/07Ed.)

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**ISIC 3826** 

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#### UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 27

Policy Number: IRH 00V6P0805001 Effect

Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

Designated Construction Projects: As required by written contract. We will not pay more than \$5,000,000 for A.I., for all Projects involved, regardless the number of the Projects.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
  - A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  - The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under COVERAGE A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under COVERAGE C regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".
- 3. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
- 4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to

Page 1 of 2

IB.EX.011 (12/07Ed.)

**ISIC 3827** 

the applicable Designated Construction Project General Aggregate Limit.

- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
  - 1. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
  - 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.

- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of Limits of Insurance (SECTION III) not otherwise modified by this endorsement shall continue to apply as stipulated.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

December 23, 2008 Date

IB.EX.011 (12/07Ed.)

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**ISIC 3828** 

Case 2:15-cv-00460-JAD-PAL Document 44-11 Filed 09/19/16 Page 26 of 27

## UNITED SPECIALTY INSURANCE COMPANY

A Delaware Stock Insurer 8200 Anderson Boulevard Fort Worth, TX 76120 (877) 476-6411

#### Endorsement # 28

Policy Number: IRH 00V6P0805001 Effective Date of Endorsements: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

## COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s)<br>Or Organization(s):   | Location And Description Of Completed Operations |
|---|--|
| As required by written contract.<br>No coverage is provided under this endorsement for single<br>and multi family dwelling units. |  |

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II - Who is An insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**Authorized Representative** 

November 24, 2008 Date

IB.EX.060 (12/07Ed.)

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**ISIC 3829** 

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## UNITED SPECIALTY INSURANCE COMPANY

8200 Anderson Boulevard Fort Worth, TX 76120 (817) 265-2000

Policy Number: IRH 00V6P0805001

Effective Date Of Endorsement: November 15, 2008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# **POLICY CHANGES**

Named Insured: R A M M Corporation; Charlie Brown Construction

**Coverage Parts Affected:** 

Changes:

It is understood and agreed that #1 on the Declarations Page the Named Insured is amended to read : R A M M Corporation; Charlie Brown Construction.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

22-

**Authorized Representative** 

<u>August 14, 2009</u> Date

IB.EX.061 (6/08 Ed.)

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**ISIC 3830** 

Case 2:15-cv-00460-JAD-PAL Document 44-12 Filed 09/19/16 Page 1 of 15

# EXHIBIT 116

October 29, 2012 letter from KB Home Nevada, Inc.'s counsel, tendering claim to Ironshore and listing the close of escrow dates for the homes at issue (ISIC 4368-81)

Case 2:15-cv-00460-JAD-PAL Document 44-12 Filed 09/19/16 Page 2 of 15

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WEHLE WOOD SMITH HENNING & BERMAN LLF 7674 West Lake Mead Boulevard, Suite 150 Las Vegas, Nevada 89128-6652 lei 702 222 0625 fax 702 253 6225

Direct dial: (720) 479-2502 Email: cgi/bertson@wshblaw.com Website: www.wshblaw.com Refer to: 05734-0102

RECEIVED

NOV 012012

MCA

October 29, 2012

VIA U.S. MAIL

Midlands Claim Administrators, Inc. 3503 NW 63<sup>rd</sup> St. Oklahoma City, OK 73116

> Re: Sanchez, et al. v. KB Home Nevada Inc. Your Named Insured: R.A.M.M. Corp. Our Client/Your Additional KB Home Nevada Inc. Insured: Claim No.: Unknown – Please Provide Policy No.: 00V6P0805001 **Policy Period:** 11/15/08-11/15/09 Project: Tierra Linda/Terracina Case No.: A593942

Dear Sir / Madam:

Our firm has been retained to represent KB Home Nevada Inc., successor in interest to Lewis Homes of Nevada ("KB Home") with respect to the construction defect claims brought pursuant to NRS §40.645 by homeowners in the Tierra Linda/Terracina communities located in Henderson, Nevada.

This letter is to serve as a tender of defense and indemnity to your Company by our client as an additional insured under the above-referenced insurance policy, as well as pursuant to the subcontract agreement(s) entered into by your insured.

## FACTUAL BACKGROUND

A total 190 homeowners in the Tierra Linda community served NRS §40.645 notices on KB Home. To date, five (5) homes have withdrawn from this matter, leaving a total of 185 homes in the case. Plaintiffs are represented by the Law Firm of Shinnick, Ryan & Ransavage, P.C. Claimants allege general constructional defects including but not limited to: window and/or door leaks, stucco cracks and spalling, stucco staining, roofing problems, masonry wall cracks, electrical problems, plumbing complaints,

Los Angeles + Giendale + Rancho Cucamonga + Riverside + Orange County + Fresno + Northern California + San Diego Denver + Phoenix + Las Vegas + Sezífie

**ISIC 4368** 

## Case 2:15-cv-00460-JAD-PAL Document 44-12 Filed 09/19/16 Page 3 of 15

WOOD SMITH Henning & Berman LLP

Midland Claims Our File No.: 05734-0102 October 29, 2012 Page 2

problems with plastic tub and/or shower enclosures, concrete cracks, ceramic tiles cracked or loose at shower enclosure, squeaky floors, wood siding or wood trim problems including rotting, foundation cracks, poor exterior drainage, HVAC problems, out of square doors, toilet problems, masonry staining and deterioration, some windows and/or doors difficult to operate, interior drywall cracks and stains, poor cabinet operation and/or finish, backsplash problems, garage door problems, poor HVAC circulation, hollow floor tiles, discoloration and paint peeling, wood trim separation, roof eave problems and staining, nail pops, leaking shower enclosures, vinyl discoloration and/or seam separating, loose carpet, organic growth problems, ceiling cracks, noticeable gaps at windows and/or doors, cracks in tile floors, exterior paint is wearing off, ceramic floor problems and the underlying causes of these symptoms. Enclosed are copies of Plaintiffs' NRS §40.645 notices related to these claims as provided by Plaintiffs' counsel, Plaintiffs' First Amended Complaint and KB Home's Third-Party Complaint. Please note that mediation is anticipated to occur in late November 2012, and trial in this matter has been scheduled for July 1, 2013.

The homes currently at issue are as follow:

| NO, | HOMEOWNER                           | ADDRESS                                      | COE DATE |
|-----|-------------------------------------|--|----------|
| 1.  | James M. Hendrick                   | 11856 Magliana St.<br>Las Vegas, NV 89183    | 10/03/02 |
| 2.  | Zonia Figueroa                      | 11779 Magliana Street<br>Las Vegas, NV 89183 | 10/24/02 |
| 3.  | Lorena E. Rosales                   | 11770 Magliana St.<br>Las Vegas, NV 89183    | 10/29/02 |
| 4.  | William and Ronda Drake             | 11731 Magliana Street<br>Las Vegas, NV 89183 | 11/07/02 |
| 5.  | Carlos A. and Teodolina<br>Zavala   | 11861 Partenio Ct.<br>Las Vegas, NV 89183    | 01/28/03 |
| 6.  | Orellana, Armando                   | 11897 Partenio Ct.<br>Las Vegas, NV 89183    | 02/14/03 |
| 7.  | Kerry and Cindy Honda               | 11868 Galvani St.<br>Las Vegas, NV 89183     | 02/27/03 |
| 8.  | Toribio T. and Amelita E.<br>Rabago | 11845 Principi Court<br>Las Vegas, NV 89183  | 03/18/03 |
| 9.  | Bobby & Marites Taeza               | 152 Bella Milano Ave.<br>Las Vegas, NV 89183 | 03/25/03 |

**ISIC 4369** 

# Case 2:15-cv-00460-JAD-PAL Document 44-12 Filed 09/19/16 Page 4 of 15

WOOD SMITH HENNING & BERMAN LLP

Midland Claims Our File No.: 05734-0102 October 29, 2012 Page 3

| NO. | HOMEOWNER                         | ADDRESS  | COE DATE |
|-----|-----------------------------------|--|----------|
| 10. | Shauna and Wesley Morgan          | 11783 San Rossore Ct.<br>Las Vegas, NV 89183   | 03/31/03 |
| 11. | Efren E. Velasco                  | 180 Fratelli Avenue<br>Las Vegas, NV 89183     | 04/09/03 |
| 12. | Julio A. Jimenez                  | 11759 San Rossore Ct.<br>Las Vegas, NV 89183   | 04/23/03 |
| 13. | Mary Seaborn                      | 11761 Elianto Street<br>Las Vegas, NV 89183    | 04/23/03 |
| 14. | Jose M. and Regina Diaz           | 11858 Principi Court<br>Las Vegas, NV 89183    | 04/24/03 |
| 15. | Carmen Ramirez and Matt<br>Tafoya | 11784 San Rossore Court<br>Las Vegas, NV 89183 | 05/23/03 |
| 16. | Daniel & Evelyn Quolas            | 11868 Bella Luna St.<br>Las Vegas, NV 89183    | 05/27/03 |
| 17. | William F. Jones III              | 11888 Bella Luna St.<br>Las Vegas, NV 89183    | 06/13/03 |
| 18. | Carlos Cardenas<br>DISMISSED      | 11775 Bella Luna St.<br>Las Vegas, NV 89183    | 06/25/03 |
| 19. | Swogger, Eric                     | 11876 Principi Ct.<br>Las Vegas, NV 89183      | 06/27/03 |
| 20. | Ulysses and Erlinda Lagasca       | 11898 Principi Ct.<br>Las Vegas, NV 89183      | 07/31/03 |
| 21. | Andrew James Thurlow              | 11790 Bella Luna St.<br>Las Vegas, NV 89183    | 07/31/03 |
| 22. | Lani Martin                       | 11897 Bella Luna St.<br>Las Vegas, NV 89183    | 08/01/03 |
| 23. | Chris Doody and Gwen<br>Abrams    | 11653 Elianto Street<br>Las Vegas, NV 89183    | 08/29/03 |
| 24. | Andres and Claudia Gonzalez       | 11663 Rossovino St.<br>Las Vegas, NV 89183     | 09/18/03 |
| 25. | Fumi Sato                         | 11754 Bella Luna St.<br>Las Vegas, NV 89183    | 09/23/03 |
| 26. | Sonya Love                        | 158 Bella Milano Avenue<br>Las Vegas, NV 89183 | 09/25/03 |
| 27. | William Montez                    | 11678 Elianto Street<br>Las Vegas, NV 89183    | 10/02/03 |

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| NO. | HOMEOWNER                               | ADDRESS  | COE DATE |
|-----|---|--|----------|
| 28. | Lynne Staber                            | 11736 Bella Luna St.<br>Las Vegas, NV 89183    | 10/07/03 |
| 29. | Michael and Coleen Hubel                | 11695 Rossovino St.<br>Las Vegas, NV 89183     | 10/08/03 |
| 30. | Melissa D. and Jack C. Graham           | 11674 Autunno Street<br>Las Vegas, NV 89183    | 10/17/03 |
| 31. | Gregory H. and Silvia P.<br>Amico       | 11882 Principi Court<br>Las Vegas, NV 89183    | 10/22/03 |
| 32, | Sara F. Matteson                        | 11962 Spurge Laurel St.<br>Las Vegas, NV 89183 | 10/30/03 |
| 33. | Shaukat and Josefina Lopez<br>Aziz      | 11735 Bergamo Court<br>Las Vegas, NV 89183     | 10/30/03 |
| 34. | Gregory H. and Kimberly A.<br>Robertson | 11658 Autunno Street<br>Las Vegas, NV 89183    | 11/05/03 |
| 35. | Alexis Masse                            | 11759 Bergamo Court<br>Las Vegas, NV 89183     | 12/04/03 |
| 36. | Shirley B. and Darlino E.<br>Edejer     | 11820 Bella Luna Street<br>Las Vegas, NV 89183 | 12/04/03 |
| 37. | Justin Legere                           | 11690 Autunno Street<br>Las Vegas, NV 89183    | 12/15/03 |
| 38. | Winter, Brenda                          | 11628 Autunno St.<br>Las Vegas, NV 89183       | 12/16/03 |
| 39. | Corona, Sabdiel<br>DISMISSED            | 11612 Autunno St.<br>Las Vegas, NV 89183       | 12/16/03 |
| 40. | Maria C. Young                          | 117 Tansy Court<br>Las Vegas, NV 89183         | 12/23/03 |
| 41. | Ulan, Karen                             | 121 Tansy Ct.<br>Las Vegas, NV 89183           | 12/29/03 |
| 42. | Alberto Del Rio                         | 121 Gilliflower Ave.<br>Las Vegas, NV 89183    | 01/12/04 |
| 43. | Joshua & Kaycee Tanner                  | 120 Tansy Ct.<br>Las Vegas, NV 89183           | 01/13/04 |
| 44. | Rodolfo Gil                             | 11578 Autunno Street<br>Las Vegas, NV 89183    | 01/15/04 |
| 45. | Edward Donoghue                         | 11611 Autunno St.<br>Las Vegas, NV 89183       | 01/16/04 |

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| NO.                    | HOMEOWNER                         | ADDRESS                 | COE DATE              |
|------------------------|-----------------------------------|-------------------------|-----------------------|
| 46.                    | Selma and Robert M. Dayen         | 11647 Vacanze Ct.       | 02/10/04              |
| 4.77                   |                                   | Las Vegas, NV 89183     |                       |
| 47.                    | Morland, Jay & Nancy              | 11615 Rossovino St.     | 02/12/04              |
|                        |                                   | Las Vegas, NV 89183     | -                     |
| 48.                    | Castro, Brian & Cynthia           | 124 Capriati Ave.       | 02/13/04              |
|                        |                                   | Las Vegas, NV 89183     | -                     |
| 49.                    | Miller, Joseph & Marjorie         | 11695 Vacanze Ct.       | 02/20/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 50.                    | Stan Rubens                       | 199 Capriati Ave.       | 02/20/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 51.                    | Emde, Dawn R.                     | 104 Masserta Ct.        | 02/25/04              |
| _                      |                                   | Las Vegas, NV 89183     |                       |
| 52.                    | Samuel and Holly Hennessy         | 11559 Rossovino St.     | 02/26/04              |
|                        | -                                 | Las Vegas, NV 89183     | and the second second |
| 53.                    | Salvador De Los Santos            | 103 Gilliflower Street  | 02/27/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 54.                    | Brittany Reid                     | 102 Basketflower Street | 03/15/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 55.                    | Vincent Curtis Thomas and         | 11655 Stivali Street    | 03/29/04              |
|                        | Hiromi Thomas                     | Las Vegas, NV 89183     |                       |
| 56.                    | Bacha, Jihad                      | 11567 Rossovino St.     | 03/31/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 57.                    | June Juanita Cooper               | 182 La Padania Ave.     | 04/08/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 58.                    | Rosa Canas                        | 102 Wall Violet Court   | 04/22/04              |
|                        |                                   | Las Vegas, NV 89183     |                       |
| 59.                    | Robert and Lois Bazar             | 11563 Rubino Street     | 04/26/04              |
|                        |                                   | Las Vegas, NV 89183     | V # / # V / V #       |
| 60.                    | Abou-Khalil, Naser                | 190 La Padania Ave      | 04/27/04              |
|                        |                                   | Las Vegas, NV 89183     | U AJ ANY O'L          |
| 61.                    | Bacha, Jihad                      | 166 La Padania Ave.     | 05/05/04              |
|                        | Abou-Khalil, Naser                | Las Vegas, NV 89183     | 00,00,01              |
| 62.                    | Gonzales, Virgilio & Charlita     | 11580 Rubino St.        | 05/17/04              |
| J <sup>A</sup> LANNI B | workening , a gaar or variatility | Las Vegas, NV 89183     | 09/1//0#              |
| 63.                    | Gonzales, Virgilio & Charlita     | 11586 Rubino St.        | 05/17/04              |
| 00,                    | Sociales, virgino or chattita     | Las Vegas, NV 89183     | 03/1//04              |
|                        |                                   | 1400 Y CEAS, 14 Y 07103 | 1                     |

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| NO. | HOMEOWNER   | ADDRESS  | COE DATE |
|-----|---|--|----------|
| 64. | Steve Nguyen  | 225 Centocelle Avenue<br>Las Vegas, NV 89183   | 06/01/04 |
| 65. | Paola Gonzalez                                      | 229 Centocelle Avenue<br>Las Vegas, NV 89183   | 06/03/04 |
| 66. | Eto, Terry  | 11599 Rubino Dr.<br>Las Vegas, NV 89183        | 06/10/04 |
| 67. | Ileana Perez  | 223 Calvino Ave.<br>Las Vegas, NV 89183        | 06/14/04 |
| 68. | Ginhawa Reynoso<br>DISMISSED                        | 11616 Rubino St.<br>Las Vegas, NV 89183        | 06/24/04 |
| 69. | Lindy Mills   | 232 Calvino Avenue<br>Las Vegas, NV 89183      | 06/25/04 |
| 70. | Danette Holub                                       | 145 Thornapple Ave.<br>Las Vegas, NV 89183     | 07/13/04 |
| 71. | Judson Smith  | 139 Thomapple Ave.<br>Las Vegas, NV 89183      | 07/20/04 |
| 72. | Saniel and Eunsil Yung                              | 132 La Padania Avenue<br>Las Vegas, NV 89183   | 07/26/04 |
| 73. | Chauncey K. Medeiros<br>Bill P. and Suzette M. Kane | 146 Trumphet Lilly Ave.<br>Las Vegas, NV 89183 | 07/29/04 |
| 74. | Horcasitas, Nicolas                                 | 138 Solidago Ave.<br>Las Vegas, NV 89183       | 07/30/04 |
| 75. | Ernesto and Sofia Santiago                          | 11673 Bella Levante St.<br>Las Vegas, NV 89183 | 07/30/04 |
| 76. | Addy, Grace   | 143 Trumphet Lilly Ave.<br>Las Vegas, NV 89183 | 08/02/04 |
| 77. | Earlene Bateman                                     | 235 Calvino Avenue<br>Las Vegas, NV 89183      | 08/04/04 |
| 78. | Fawzi and Lenda Massa                               | 112 Trumphet Lilly Ave.<br>Las Vegas, NV 89183 | 08/10/04 |
| 79. | Avinger, Shari                                      | 262 Calvino Ave.<br>Las Vegas, NV 89183        | 08/31/04 |
| 80. | Maria Rita Locsin<br>Arnold Prepena                 | 248 Bella Matese Ave.<br>Las Vegas, NV 89183   | 09/17/04 |
| 81. | Ata and Sima Kashani                                | 11719 San Rossore Court<br>Las Vegas, NV 89183 | 09/17/04 |

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| NO. | HOMEOWNER                                   | ADDRESS   | COE DATE |
|-----|---|---|----------|
| 82. | Sanchez, Jesus                              | 12043 Mirnosa Bloom Ct.<br>Las Vegas, NV 89183  | 09/30/04 |
| 83. | Monti, Jack J.                              | 12032 Wild Chamomile St.<br>Las Vegas, NV 89183 | 09/30/04 |
| 84. | Susan Ann Lerner                            | 12034 Yarrow Ridge Ct.<br>Las Vegas, NV 89183   | 10/26/04 |
| 85. | Ginhawa Reynoso                             | 114 La Padania Ave.<br>Las Vegas, NV 89183      | 11/05/04 |
| 86. | Sandra Dennis Gonzalez                      | 12036 Mimosa Bloom Ct.<br>Las Vegas, NV 89183   | 11/05/04 |
| 87. | Harold Hamilton                             | 106 La Padania Ave.<br>Las Vegas, NV 89183      | 11/08/04 |
| 88. | Belete & Helen Mekonnen                     | 266 Maddelena Ave.<br>Las Vegas, NV 89183       | 11/10/04 |
| 89. | Myers, Christa                              | 210 Bella Matese Ave.<br>Las Vegas, NV 89183    | 11/10/04 |
| 90. | Brendan and Cristi Shields                  | 271 Maddelena Ave.<br>Las Vegas, NV 89183       | 11/12/04 |
| 91. | Amanda Chai<br>Michael Cashmon              | 218 Bella Matese Ave.<br>Las Vegas, NV 89183    | 11/18/04 |
| 92. | Little, David                               | 222 Bella Matese Ave.<br>Las Vegas, NV 89183    | 11/23/04 |
| 93. | Armand and Ruby Cacacho                     | 276 Bella Calabria Ave.<br>Las Vegas, NV 89183  | 11/24/04 |
| 94. | Sanchez, Juan Carlos                        | 11978 White Lilly St.<br>Las Vegas, NV 89183    | 12/23/04 |
| 95. | Kellie Gurule                               | 11964 White Lilly St.<br>Las Vegas, NV 89183    | 01/05/05 |
| 96. | Aukofer, Anthony<br>Dalpini, Joy A. Aukofer | 344 Bella Calabria Ave.<br>Las Vegas, NV 89183  | 01/07/05 |
| 97. | Donald W. and Kimberly A.<br>Madson         | 316 Bella Calabria Ave.<br>Las Vegas, NV 89183  | 01/11/05 |
| 98. | Allfonso T. and Ydaria Solis                | 349 Maddelena Ave.<br>Las Vegas, NV 89183       | 02/01/05 |
| 99. | Beide Alemu                                 | 137 Wild Candlenut Ct.<br>Las Vegas, NV 89183   | 02/25/05 |

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| NO.  | HOMEOWNER                   | ADDRESS                | COE DATE     |
|------|-----------------------------|------------------------|--------------|
| 100. | Christine O. Krumins-Warras | 11600 Vesuvio Ct.      | 03/01/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 101. | Veerasammy and Haimwatti    | 236 Del Cira Avenue    | 04/01/05     |
|      | Dindyal                     | Las Vegas, NV 89183    |              |
| 102. | Rosendo & Margarita Cano    | 11600 Whipkey St.      | 04/18/05     |
| 1.00 |                             | Las Vegas, NV 89183    |              |
| 103. | Gorodetzer, Adam            | 115 Capriati Ave.      | 04/29/05     |
|      |                             | Las Vegas, NV 89183    | 1            |
| 104. | Massimo Zaretti             | 12032 White Lilly St.  | 04/29/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 105. | Chris T. Epicioco           | 11584 Whipkey St.      | 05/05/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 106. | Mesa, Gregorio & Maria      | 11568 Whipkey St.      | 05/06/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 107. | Sinisa Vuksic               | 11583 Vesuvio Court    | 05/06/05     |
|      |                             | Las Vegas, NV 89183    | 4 he         |
| 108. | Anthony H. Clarkston        | 11576 Whipkey Street   | 05/12/05     |
| _    |                             | Las Vegas, NV 89183    |              |
| 109. | Treesa Roberto              | 11914 Jersey Lilly St. | 05/19/05     |
| -    |                             | Las Vegas, NV 89183    |              |
| 110. | Saniel Yung                 | 11662 Nardo Court      | 06/02/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 111. | Abby Fadaikar               | 11664 Primo St.        | 06/06/05     |
| _    |                             | Las Vegas, NV 89183    | all a second |
| 112. | Angelo Sargenti, Jr.        | 11962 Jersey Lilly St. | 06/07/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 113. | Romel C. Olfindo            | 335 Bianco Ridge Ave.  | 06/16/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 114. | Michael D. Zahl             | 11650 Nardo Court      | 06/20/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 115. | Freddy & Joanna Leung       | 11675 Nardo Ct.        | 06/29/05     |
|      |                             | Las Vegas, NV 89183    |              |
| 116. | Chark and Monica Wong       | 154 La Padania Avenue  | 06/30/05     |
| _    |                             | Las Vegas, NV 89183    |              |
| 117. | Rogers, Dana                | 110 Gilliflower Ave.   | 07/19/05     |
|      |                             | Las Vegas, NV 89183    |              |

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| NO.  | HOMEOWNER                            | ADDRESS   | COE DATE |
|------|--------------------------------------|---|----------|
| 118, | Robert Loos                          | 11624 Whipkey St.<br>Las Vegas, NV 89183          | 07/29/05 |
| 119. | Ted and Araceli Dimaguila            | 11667 Fiorello Court<br>Las Vegas, NV 89183       | 08/09/05 |
| 120. | Gregorio and Ruth Mendoza            | 233 Lantana Breeze Dr.<br>Las Vegas, NV 89183     | 08/25/05 |
| 121. | Manoj and Nikita Aswani              | 102 Gilliflower Avenue<br>Las Vegas, NV 89183     | 08/26/05 |
| 122, | Ermino R. Bueno                      | 11593 Whipkey Street<br>Las Vegas, NV 89183       | 09/26/05 |
| 123. | Garry Dolan<br>Phai Thi Tran         | 260 Bella Matese Ave.<br>Las Vegas, NV 89183      | 09/27/05 |
| 124. | Chris Blevens                        | 11817 Galvani St.<br>Las Vegas, NV 89183          | 09/27/05 |
| 125. | Douglas & Toni M. Westbrook          | 11608 Whipkey St.<br>Las Vegas, NV 89183          | 09/28/05 |
| 126. | Espinosa, Danilo & Marilyn           | 11660 Fiorello Ct.<br>Las Vegas, NV 89183         | 10/05/05 |
| 127. | Wayne L. Butts Jr.                   | 83 Wood Cliff Ave.<br>Las Vegas, NV 89183         | 10/07/05 |
| 128. | Andrew Ball<br>Katia Andrusiak       | 311 Bianco Ridge Ave.<br>Las Vegas, NV 89183      | 10/14/05 |
| 129. | Abundiz, Maria G.                    | 347 Bianco Ridge Ave.<br>Las Vegas, NV 89183      | 10/17/05 |
| 130. | Cristin Balsamo                      | 66 Dutch Colony Ave.<br>Las Vegas, NV 89183       | 12/01/05 |
| 131. | Moncada, Alma & Edgardo<br>DISMISSED | 11676 Kindsland St.<br>Las Vegas, NV 89183        | 12/15/05 |
| 132. | Alexander G. and Cynthia L.<br>Cano  | 223 Del Cira Avenue<br>Las Vegas, NV 89183        | 12/15/05 |
| 133. | Aurelio and Ana Francisca<br>Munoz   | 11742 Village Arbor Street<br>Las Vegas, NV 89183 | 12/29/05 |
| 134. | Thomas, Jeannie                      | 11648 Andorra St.<br>Las Vegas, NV 89183          | 12/30/05 |
| 135. | Saniel and Eunsil Yung               | 11669 Terenzio Court<br>Las Vegas, NV 89183       | 12/30/05 |

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| NO.  | HOMEOWNER   | ADDRESS  | COE DATE |
|------|---|--|----------|
| 136. | Herald and Susan Mabanta                          | 11602 Andorra Street<br>Las Vegas, NV 89183    | 01/11/06 |
| 137. | Sam and Shizuka Sun                               | 64 Jewel Mine Avenue<br>Las Vegas, NV 89183    | 02/09/06 |
| 138. | Thomas Gearing                                    | 11901 Giles Street<br>Las Vegas, NV 89183      | 02/22/06 |
| 139. | Gary Cavaretta                                    | 334 Windsor Ridge Ave.<br>Las Vegas, NV 89183  | 03/01/06 |
| 140. | Lorenzon E. Fiesta                                | 11895 Giles St.<br>Las Vegas, NV 89183         | 03/22/06 |
| 141. | Carolyn Morgan Herrick                            | 11715 Village Arbor St.<br>Las Vegas, NV 89183 | 03/27/06 |
| 142. | Carl Albert Herrick and<br>Carolyn Morgan Herrick | 77 Jewel Mine Avenue<br>Las Vegas, NV 89183    | 04/13/06 |
| 143. | Nam Gui Kim                                       | 70 Peachtree Hill Ave.<br>Las Vegas, NV 89183  | 04/19/06 |
| 144. | Vincent Hamon                                     | 11643 Terenzio Court<br>Las Vegas, NV 89183    | 04/24/06 |
| 145. | Cynthia Merriman                                  | 11566 Andorra Street<br>Las Vegas, NV 89183    | 05/10/06 |
| 146. | Susan K. Jones                                    | 94 Peachtree Hill Ave.<br>Las Vegas, NV 89183  | 05/24/06 |
| 147. | Rogelio and Anastacia<br>Marcelino                | 11620 Andorra Street<br>Las Vegas, NV 89183    | 05/31/06 |
| 148. | Kathy Latifi<br>(Arash & Armon LLC)               | 12032 Mystic Arbor St.<br>Las Vegas, NV 89183  | 06/15/06 |
| 149. | Alexander & Victoria Gelfer                       | 12018 Giles St.<br>Las Vegas, NV 89183         | 06/29/06 |
| 150. | Lucille Gavins                                    | 61 Foxworth Court<br>Las Vegas, NV 89183       | 07/27/06 |
| 151. | Gerald Ray Gooch                                  | 73 Desert Palm Dr.<br>Las Vegas, NV 89183      | 08/24/06 |
| 152, | Gordon Leong                                      | 11830 Newport View St.<br>Las Vegas, NV 89183  | 08/24/06 |
| 153. | Vicente and Benigna P. Bianes                     | 68 Foxworth Court<br>Las Vegas, NV 89183       | 09/14/06 |

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| NO.  | HOMEOWNER                                 | ADDRESS   | COE DATE |
|------|---|---|----------|
| 154. | Graciela White                            | 11834 Newport View St<br>Las Vegas, NV 89183    | 10/25/06 |
| 155. | Rebecca Mankis                            | 11672 Tierney Creek Dr.<br>Las Vegas, NV 89183  | 11/08/06 |
| 156. | Bradley J. Cupery                         | 11679 Tierney Creek Dr.<br>Las Vegas, NV 89183  | 11/09/06 |
| 157. | Tina Huang                                | 12042 Snow Bank St.<br>Las Vegas, NV 89183      | 11/09/06 |
| 158. | Gueco, Anthony & Elizabeth                | 81 Glen Park Ave.<br>Las Vegas, NV 89183        | 11/27/06 |
| 159. | Benjamin and Barbara<br>McClellan         | 91 Glen Park Avenue<br>Las Vegas, NV 89183      | 11/27/06 |
| 160. | Zenaida and Ricardo Schroth<br>DISMISSED  | 11709 Splendor View Dr.<br>Las Vegas, NV 89183  | 11/27/06 |
| 161. | Clarita Collins                           | 97 Glen Park Avenue<br>Las Vegas, NV 89183      | 11/30/06 |
| 162. | Alika & Brittany Kupau                    | 72 Japonica Ave.<br>Las Vegas, NV 89183         | 12/01/06 |
| 163. | Tamayo, Marciano & Yvonne                 | 11737 Tierney Creek Rd.<br>Las Vegas, NV 89183  | 12/05/06 |
| 164. | Cassandra Homme                           | 37 Belden Ave.<br>Las Vegas, NV 89183           | 12/07/06 |
| 165. | Cesar R. and Concepcion<br>Valderama      | 11870 Montclair Park Ct.<br>Las Vegas, NV 89183 | 12/13/06 |
| 166. | Ferrer, Guadelia D.                       | 11859 Montclair Park Ct.<br>Las Vegas, NV 89183 | 12/14/06 |
| 167. | Teresita Angeles<br>(Viray, Brice et al.) | 11688 Tierney Creek Dr.<br>Las Vegas, NV 89183  | 01/05/07 |
| 168, | Ladrea La Branche                         | 30 Summer Walk Avenue<br>Las Vegas, NV 89183    | 01/05/07 |
| 169. | Cres Salonga                              | 11695 Tierney Creek Ave.<br>Las Vegas, NV 89183 | 01/16/07 |
| 170. | Lisa Yu                                   | 301 Morning Crest Ave.<br>Las Vegas, NV 89183   | 01/31/07 |
| 171. | Merle Lok and Doyle Ellis                 | 11692 Tierney Creek Dr<br>Las Vegas, NV 89183   | 02/23/07 |

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| NO.  | HOMEOWNER                                | ADDRESS  | COE DATE |  |
|------|--|--|----------|--|
| 172. | Jay and Gayle Wolford                    | 11751 Tierney Creek Drive<br>Las Vegas, NV 89183 | 03/05/07 |  |
| 173. | Enrique L. and Epifania P.<br>Mercado    | 281 Morning Crest Ave.<br>Las Vegas, NV 89183    | 03/27/07 |  |
| 174. | Gloria Martinez                          | 11600 Giles St.<br>Las Vegas, NV 89183           | 04/03/07 |  |
| 175. | Ramon & Lavette Guirao                   | 256 Morning Crest Ave.<br>Las Vegas, NV 89183    | 04/04/07 |  |
| 176. | Bayona, Gerald M. & Marian<br>T.         | 11625 Giles St.<br>Las Vegas, NV 89183           | 04/17/07 |  |
| 177. | Huntington, Carolina L.                  | 21 Harbor Pines Ct.<br>Las Vegas, NV 89183       | 04/18/07 |  |
| 178. | Maria Tokifuji                           | 16 Harbor Pines Ct.<br>Las Vegas, NV 89183       | 05/17/07 |  |
| 179. | Janene Marie French                      | 253 Morning Crest Ave.<br>Las Vegas, NV 89183    | 06/19/07 |  |
| 180. | Sherry G. Morales<br>Wayne Seare         | 23 Desert Palm Drive<br>Las Vegas, NV 89183      | 07/06/07 |  |
| 181. | Cory & Kristine P. Herpin                | 11777 Giles St.<br>Las Vegas, NV 89183           | 07/26/07 |  |
| 182. | Pham, Nga & Uyen                         | 11753 Giles St.<br>Las Vegas, NV 89183           | 09/10/07 |  |
| 183. | Lloyd, Steven and Whitney                | 11658 Elcadore St.<br>Las Vegas, NV 89183        | 09/14/07 |  |
| 184. | Tanya Jeffries                           | 11545 Giles Street<br>Las Vegas, NV 89183        | 09/18/07 |  |
| 185. | Alexander & Myma E.<br>Agustin           | 11563 Giles St.<br>Las Vegas, NV 89183           | 10/03/07 |  |
| 186. | Miller, Michael R.<br>Tinker, Wendell K. | 63 Dark Creek Ave.<br>Las Vegas, NV 89183        | 11/19/07 |  |
| 187. | Inna Peter                               | 11607 Giles St.<br>Las Vegas, NV 89183           | 11/30/07 |  |
| 188. | Craig L. Moran                           | 26 Snow Pond Ct.<br>Las Vegas, NV 89183          | 11/30/07 |  |
| 189. | Minnie Pesigan                           | 11675 Giles Street<br>Las Vegas, NV 89183        | 01/15/08 |  |

**ISIC 4379** 

## Case 2:15-cv-00460-JAD-PAL Document 44-12 Filed 09/19/16 Page 14 of 15

WOOD SMITH Henning & Berman LLP

Midland Claims Our File No.: 05734-0102 October 29, 2012 Page 13

| NO.  | HOMEOWNER          | ADDRESS             | COE DATE |
|------|--------------------|---------------------|----------|
| 190. | Britt Paul Barte & | 67 Dark Creek Ave.  | 04/04/08 |
|      | Daffodyl Villaluz  | Las Vegas, NV 89183 |          |

Please note that a portion of the foregoing homes are covered by a Wrap insurance policy that went into effect on February 1, 2004. KB Home's records indicate that RAMM Corp. enrolled in the Wrap policy as of February 1, 2004. Thus, please be advised that any home closing escrow after that date is not subject of this tender.

#### BASIS OF TENDER

Upon KB Home's information and belief, your named insured entered into a subcontract with our client, which provides among other things that KB Home would be named as an additional insured under your policies. KB Home is informed that it is an additional insured under the referenced polices and it will be looking to your company to provide it with a defense against the Plaintiffs' claims in this matter. Enclosed are copies of the NRS §40.645 Notices; Plaintiffs' First Amended Complaint and KB Home's Third-Party Complaint to assist in your evaluation of this matter. We have also enclosed the Master Subcontract Agreements between your named insured and KB Home. Please note that we have not yet located the work agreements specific to this project, but we will provide them if and when they are found. Lastly, several documents have been deposited into the document depository located at Litigation Services, 3770 Howard Hughes Parkway, Suite 300, Las Vegas, NV 89169.

Based upon the foregoing, the duty of your Company and the independent duty of your insured to defend and indemnify KB Home in this matter has been triggered.

**ISIC 4380** 

### Case 2:15-cv-00460-JAD-PAL Document 44-12 Filed 09/19/16 Page 15 of 15

WOOD SMITH HENNING & BERMAN LLP

Midland Claims Our File No.: 05734-0102 October 29, 2012 Page 14

Please provide a response to the tender of this matter within thirty (30) days pursuant to Nevada law. In your response, please provide what type of defense you are willing to provide our client and the limit of that defense, if any. Accordingly, in the interim, our clients are reserving all of their rights under the policy and subcontract in question

Sincerely,

WOOD, SMITH, HENNING & BERMAN LLP

By:

JANICE M. MICHAELS CHRISTINA M. GILBERTSON ADAM R. FULTON

JMM/CMU/ARF: Enclosures LEGAL:05734-0102/2452190.1

**ISIC 4381** 

Case 2:15-cv-00460-JAD-PAL Document 44-13 Filed 09/19/16 Page 1 of 18

# EXHIBIT 117 (Part 1)

Plaintiff's First Amended Complaint filed on November 1, 2010, in Clark County District Court, Nevada, in the action captioned *Sanchez, et al. v. KB Home Nevada Inc.*, Case No. A-10-616730-D ("*Sanchez* action") (ISIC 4302-4331) Part 1 (ISIC 4302-4318)

|   | Electronically Filed<br>11/01/2010 05:09:17 Pl |
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|   | 11/01/2010 03:03:17 11                         |
|   | Alun D. Lohum                                  |
| ACOM<br>Duane E. Shinnick, Esq.   | Other N Con                                    |
| Bar No. 7176  | CLERK OF THE COURT                             |
| Eric Ransavage, Esq.<br>Bar, No. 8876   |  |
| Bradley S. Rosenberg, Esq.  |  |
| Bar No. 8737<br>SHINNICK, RYAN & RANSAVAGE P.C.                               |  |
| 2881 Business Park Court, Suite 210   |  |
| Las Vegas, NV 89128   |  |
| Tel. (702) 631-8014<br>Fax (702) 631-8024                                     |  |
| dshinnick@ssllplaw.com  |  |
| eransavage@ssllplaw.com<br>brosenberg@ssllplaw.com                            |  |
|   |  |
| Attorneys for Plaintiffs  |  |
|   |  |
|   |  |
| DISTR   | RICT COURT                                     |
| CLARK CC  | OUNTY, NEVADA                                  |
| JUAN CARLOS SANCHEZ, individually;  | ) CASE NO. A-10-616730-D                       |
| NASSER ABOU-KHALIL and JIHAD  | j · · · · · · · · · · · · · · · · · · ·        |
| BACHA individually; MARIA G. ABUNDIZ,   | ) DEPT. NO. XIX                                |
| individually; GRACE ADDY, individually;                                       | ) PLAINTIFFS' FIRST AMENDED                    |
| SHARI AVINGER, individually; GERALD M.  | CONSTRUCTION DEFECT COMPLAINT                  |
| and MARIAN T. BAYONA, individually;<br>BRIAN and CYNDI CASTRO, individually;  | {  |
| SABDREL CORONA, individually; SELMA   | 2  |
| R. and ROBERT DAYEN, individually;  | {  |
| ALBERTO DEL RIO, individually; GARY   | 5  |
| DOLAN and PHAI THI TRAN, individually;  | 3  |
| CHRIS DOODY and GWEN ABRAMS,<br>individually; JANENE FRENCH, individually;    | 5  |
| ALEXANDER and VICTORIA GELFER,  | {  |
| individually; GERALD R. GOOCH,  | 5  |
| individually; ADAM GORODETZER,  | 3  |
| individually; JAMES M. HEDRICK,   | 5  |
| individually; CASSANDRA HOMME,<br>individually; SUSAN K. JONES, individually; | 5  |
| ALIKA and BRITTANY KUPAU,   | 3  |
| individually; ULYSSES and ERLINDA   | ()   |
| LAGASCA, individually; SUSAN A.   | 3  |
| LERNER, individually; DAVID and   | 3  |
| MICHELE LITTLE, individually; LANI  | 3  |
| MARTIN, individually; SARA F.   | 2  |
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| Case 2.15-00   | -00460-JAD-PAL  | Document 44-13  | Filed 09/19/16 | Page 3 of 18 |
|--|---|---|----------------|--------------|
|  |   |   |                |              |
|  |   |   |                |              |
| MATTESON, inc  | lividually; BENJAM  | IN and )  |                |              |
|  | ICCLELLAN, indivi   |   |                |              |
|  | MEDEIROS and BI   |   |                |              |
|  | ANE, individually; Jo   |   |                |              |
|  | LER, individually; A  |   |                |              |
|  | MONCADA, individ  |   |                |              |
|  | , individually; JAY F   |   |                |              |
| MORLAND and  | NANCY A. YOUNG  | G- {  |                |              |
| MORLAND, indi  | vidually; CHRISTA   | 3   |                |              |
| MYERS, individu  | ally; ARMANDO   | 5   |                |              |
|  | lividually; MINNIE  | )   |                |              |
|  | dually; NGA and U   |   |                |              |
|  | Illy; DANIEL R. and   | 1 S   |                |              |
|  | OLAS, individually;   | 5   |                |              |
|  | D, individually; STA  |   |                |              |
|  | fually; JESUS SANC  |   |                |              |
| and the second   | C and ANITA SWO   |   |                |              |
| the second se  | HUA and KAYCEE  |   |                |              |
|  | dually; JEANNIE TI  |   |                |              |
|  | REN ULAN, individ   |   |                |              |
|  | TONI M. WESTBRO   | DOK, {  |                |              |
| individually; BRI  | and the second se | )   |                |              |
|  | DE ALEMU, individ   |   |                |              |
|  | and JOSEFINA LC<br>y; BRADLEY J. CU   |   |                |              |
| individually; SAM  |   | $(1 \text{ LK} \mathbf{I}, \mathbf{j})$   |                |              |
|  | ividually; CRISTIN  | )   |                |              |
|  | ividually; DANETTI  |   |                |              |
|  | ally; MARIA RITA  |   |                |              |
| the second se  | REPENA, individual  |   |                |              |
| which was a seen and the set of t | NASTACIA MARC   |   |                |              |
| individually; ERM  | ESTO and SOFIA  | {   |                |              |
| SANTIAGO, ind  | ividually; LYNNE S  | TABER, 5  |                |              |
|  | SAR R. and CONCE  |   |                |              |
|  | A, individually; FUN  | II SATO,  |                |              |
|  | EN E. VELASCO,  | 5   |                |              |
|  | SON SMITH, indiv  | idually; j  |                |              |
|  | CRISTI SHIELDS,   | )   |                |              |
| been a second second second second second second second  | EESA ROBERTO,   |   |                |              |
| and the second   | YNE SEARE and SI  | and the second |                |              |
|  | ndividually; DONAL  |   |                |              |
| A REAL TO A REAL AND A REAL PROPERTY AND A REAL PROPERTY AND   | A. MADSON, indiv  |   |                |              |
|  | TS JR., individually  |   |                |              |
|  | and KATIE ANDR  |   |                |              |
| the second se  | THONY H. CLARK<br>ERASAMMY and  | 510N, )   |                |              |
| individually, vEI  | and   | 3   |                |              |
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| Total Internation  |   |   |                |              |

COMPLAINT FOR DAMAGES

1 HAIMWATTI DINDYAL, individually; WESLEY AND SHAUNA MORGAN, 2 individually; LEONARD W. and CYNTHIA L. MERRIMAN, individually; WILLIAM F. 3 JONES, III, individually; MARY SEABORN, 4 individually; BRITT PAUL BARTE and DAFFODYL VILLALUZ, individually; 5 ALEXANDER and MYRNA AGUSTIN, individually; ANTHONY AUKOFER, 6 individually; CHRIS BLEVENS, individually; 7 ERMINO R. BUENO, individually; ROSA C. CANAS, individually; ROSENDO and 8 MARGARITA CANO, individually; CARLOS S. CARDENAS, individually; AMANDA 9 CHAI CASHMON and MICHAEL 10 CASHMON, individually; JUNE JUANITA COOPER, individually; JOSE M. and 11 REGINA DIAZ, individually; TED and ARACELI DIMAGUILA, individually; 12 EDWARD DONOGHUE, individually; 13 DAWN EMDE, individually; CHRIS T. EPICIOCO, individually; DANILO S. and 14 MARILYN O. ESPINOSA, individually; 15 TERRY ETO, individually; ABBY A. FADAIKAR, individually; GUADELIA D. 16 FERRER, individually; LORENZO FIESTA, individually; ANDRES and CLAUDIA 17 GONZALEZ, individually; VIRGILIO and 18 CHARLITA GONZALES, individually; ANTHONY GUECO, individually; RAMON 19 and LAVETTE GUIRAO, individually; HAROLD HAMILTON, individually; COREY 20 and P. KRISTINE HERPIN, individually; 21 KERRY T. and CINDY M. HONDA, individually; NICOLAS HORCASITAS, 22 individually; MICHAEL and COLEEN HUBEL, individually; CAROLINA 23 HUNTINGTON; individually; TANYA 24 JEFFRIES, individually; JULIO A. JIMENEZ, individually; NAN GUI KIM, individually; 25 CHRISTINE O. KRUMINS-WARRAS, individually; KATHY LATIFI, individually; 26 FREDDY and JOANNA LEUNG, 27 individually; ROBERT S. LOOS, individually; GLORIA H. MARTINEZ, individually; 28 BELETE and HELEN MEKONNEN,

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| - 11 | 1 11 12 IL ARMARANA INCOME                 |   |
|------|--|---|
|      | individually; GREGORIO and RUTH            | 2 |
|      | MENDOZA, individually; CRAIG L.MORAN,      | 3 |
| Ш    | individually; AURELIO MUNOZ and ANA        | 5 |
|      | FRANCISCA C. MUNOZ, individually;          | 5 |
|      | STEVEN and WHITNEY LLOYD,                  | ) |
| Ш    | individually; MERLE LOK and DOYLE          | 2 |
| ł    | ELLIS, individually; GREGORIO and MARIA    | 3 |
|      | MESA, individually; MICHAEL ROGER          | 3 |
|      | MILLER and WENDALL KELLY TINKER,           | 5 |
|      | individually; ILEANA PEREZ, individually;  | 5 |
| Ш    | INNA PETER, individually; CARMEN           | 2 |
|      | RAMIREZ, individually; GINHAWA             | 3 |
|      | REYNOSO, individually; DANA ROGERS,        | 3 |
| Ш    | individually; LORENA ROSALES,              | 5 |
| Ш    | individually; CRES SALONGA, individually;  | ) |
|      | RICARDO and ZENAIDA SCHROTH,               | 3 |
|      | individually; ALFONSO T. and YDANIA        | 3 |
|      | SOLIS, individually; SAM and SHIZUKA       | 3 |
|      | SUN, individually; BOBBY and MARITES       | 5 |
|      | TAEZA, individually; MARCIANO and          | 5 |
|      | YVONNE TAMAYO, individually; MARIA         | 2 |
|      | and EDWIN TOKIFUJI, individually;          | 3 |
|      | ANDREW J. THURLOW, individually;           | 3 |
|      | GRACIELA C. WHITE, individually; LISA      | 5 |
|      | YU, individually; CARLOS A. ZAVALA and     | 5 |
| Π    | TEODELINDA AMADOR-ZAVALA,                  | 2 |
|      | individually; ROMEL C. OLFINDO,            | 3 |
|      | individually; LUCILLE GAVINS,              | 3 |
| Ш    | individually; SINISE VUKSIC, individually; | 5 |
|      | MANOJ and NIKITA ASWANI, individually;     | ) |
| Ш    | ARMAND and RUBY CACACHO,                   | 2 |
|      | individually; ATA and SIMA KASHANI.        | 3 |
| Ш    | individually; LADREA LA BRANCHE,           | 3 |
|      | individually; SONYA LOVE, individually;    | 5 |
|      | ANGELO SARGENTI, JR., individually;        | 2 |
|      | MARIA C. YOUNG, individually; MONICA       | 2 |
|      | WONG and CHARK TONG WONG,                  | < |
|      | individually; GREGORY H. and KIMBERLY      | 5 |
|      | A. ROBERTSON, individually; SHIRLEY B.     | 5 |
|      | and DARLINO E. EDEJER, individually;       | 2 |
|      | ROBERT P. and LOIS E. BAZAR,               | 3 |
|      | individually; VINCENT HAMON,               | 3 |
|      | individually; EARLENE BATEMAN,             | 5 |
|      | individually; HERALD B. and SUSAN C.       | 5 |
|      | MABANTA, individually; TERESITA            | ) |
|      | ANGELES, individually; CLARITA             | 2 |
|      | in to all bo, maintaining, containing      | 3 |
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| COLLINS, individually; STEVE NGUYEN,       |             |
|--|-------------|
| individually; TINA HUANG, individually;    | 3           |
|  | 3           |
| RODOLFO GIL, individually; SONIA H.        | 5           |
| FIGUEROA, individually; MASSIMO            | 5           |
| ZARETTI, individually; MICHAEL D. ZAHL,    | )           |
| individually; GREGORY M. and SILVIA P.     | 2           |
| AMICO, individually; GARY J.               | 2           |
| CAVARETTA, individually; SALVADOR DE       | 3           |
| LOS SANTOS, individually; WILLIAM and      | 5           |
| RONDA DRAKE, individually; PAOLA           | 5           |
| GONZALEZ, individually; JACK C. and        | )           |
| MELISSA D. GRAHAM, individually;           | 2           |
| SAMUEL and HOLLY HENNESSY,                 | 2           |
| individually; GORDON Y. S. LEONG. and      | 3           |
| YVONNE L. TATSUNO, individually;           | 5           |
| REBECCA MANKINS, individually; ALEXS       | 5           |
| Y. MASSE, individually; LINDY D. MILLS,    | )           |
| individually; TORIBIO T. and AMELITA E.    | 2           |
| RABAGO, individually; JAY AND GAYLE        | 2           |
| WOLFORD, individually; SANIEL and          | 5           |
| EUNSIL YUNG, individually; VINCENT         | 5           |
| CURTIS and HIROMI THOMAS,                  | 5           |
| individually; FAWZI and LENDA MASSA,       | )           |
|  | 2           |
| individually; JUSTIN LEGERE, individually; | 3           |
| VICENTE N. and BENIGNA P. BIANES,          | 3           |
| individually; ENRIQUE L. and EPIFANIA P.   | 5           |
| MERCADO, individually; WILLIAM             | )           |
| MONTEZ, individually; CYNTHIA L. and       | 2           |
| ALEXANDER G. CANO, individually;           | 2           |
| CAROLYN MORGAN HERRICK and CARL            | 5           |
| ALBERT HERRICK, individually, KELLIE       | 5           |
| GURULE, individually; THOMAS               | 5           |
| GEARING, individually and ROES 200-600,    | 2           |
| inclusive                                  | 2           |
|  | 3           |
| Plaintiffs,                                | 5           |
|  | 5           |
| V <sub>r</sub>                             | 5           |
| KB HOME NEVADA INC., a Nevada              | 2           |
| Corporation; and DOES 1 through 500,       | 2           |
| inclusive,                                 | 3           |
| menuarre,                                  | 5           |
| Defendants.                                | 5           |
| Derenduna.                                 | )           |
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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

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PLEASE TAKE NOTICE THAT PLAINTIFFS hereby file this FIRST AMENDED CONSTRUCTION DEFECT COMPLAINT pursuant to the Case Management Order. This First Amended Complaint is being filed in order to add by name the following Plaintiff homeowners:

| ROE  | PLAINTIFF                    | ADDRESS                    |
|------|------------------------------|----------------------------|
| 1    | BEIDE ALEMU                  | 137 Wild Candlenut         |
|      |                              | Las Vegas, NV 89183        |
| 2    | SHAUKAT AZIZ                 | 11735 Bergamo Court        |
| 3    | JOSEFINA LOPEZ AZIZ          | Las Vegas, NV 89183        |
| 4    | BRADLEY J. CUPERY            | 11679 Tierney Creek Drive  |
|      |                              | Las Vegas, NV 89183        |
| 5    | SANDRA DENNIS GONZALEZ       | 12036 Mimosa Bloom Court   |
|      |                              | Las Vegas, NV 89183        |
| 6    | CRISTIN BALSAMO              | 66 Dutch Colony Ave.       |
|      |                              | Las Vegas, NV 89183        |
| 7    | DANETTE HOLUB                | 145 Thornapple Ave         |
|      | and the second second second | Las Vegas, NV 89183        |
| 8    | MARIA RITA LOCSIN            | 248 Bella Matese Ave.      |
| 9    | ARNOLD PREPENA               | Las Vegas, NV 89183        |
| 10   | ROGELIO MARCELINO            | 11620 Andorra St.          |
| 11   | ANASTACIA MARCELINO          | Las Vegas, NV 89183        |
| 12   | ERNESTO SANTIAGO             | 11673 Bella Levante        |
| 13   | SOFIA SANTIAGO               | Las Vegas, NV 89183        |
| 14   | LYNNE STABER                 | 11736 Bella Luna St.       |
| 0.   |                              | Las Vegas, NV 89183        |
| 15   | CESAR R. VALDERAMA           | 11870 Montclair Park Court |
| 16   | CONCEPCIÓN P. VALDERAMA      | Las Vegas, NV 89183        |
| 17   | FUMI SATO                    | 11754 Bella Luna St.       |
|      |                              | Las Vegas, NV 89183        |
| 18   | EFREN E. VELASCO             | 180 Fratelli Ave.          |
| C. 1 |                              | Las Vegas, NV 89183        |
| 19   | JUDSON SMITH                 | 139 Thornapple Ave.        |
| 23   | 1.00.00100100100             | Las Vegas, NV 89183        |
| 20   | BRENDAN SHIELDS              | 271 Maddelena Ave.         |
| 21   | CRISTI SHIELDS               | Las Vegas, NV 89183        |
| 22   | TREESA ROBERTO               | 11914 Jersey Lilly St.     |
|      |                              | Las Vegas, NV 89183        |
| 23   | WAYNE SEARE                  | 23 Desert Palm Drive       |
| 24   | SHERRY G. MORALES            | Las Vegas, NV 89183        |
| 25   | DONALD W. MADSON             | 316 Bella Calabria Ave.    |
| 26   | KIMBERLY A. MADSON           | Las Vegas, NV 89183        |
| 27   | WAYNE L. BUTTS JR.           | 83 Wood Cliff Ave.         |
| -1   | THERE BOTTOM.                | 1 05 trood chill rive.     |

Las Vegas, NV 89183 311 Bianco Ridge Ave.

Las Vegas, NV 89183 11576 Whipkey St.

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

11566 Andorra Street

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

344 Bella Calabria Ave.

67 Dark Creek Ave.

11761 Elianto St.

11563 Giles St.

11783 San Rossore Court

236 Del Cira Ave.

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ANDREW BELL

KATIE ANDRUSIATE

ANTHONY H. CLARKSTON

VEERASAMMY DINDYAL

LEONARD W. MERRIMAN

CYNTHIA L. MERRIMAN

HAIMWATTI DINDYAL

WESLEY MORGAN

SHAUNA MORGAN

MARY SEABORN

BRITT PAUL BARTE

MYRNA E. AGUSTIN

ANTHONY AUKOFER

DAFFODYL VILLALUZ

ALEXANDER AGUSTIN

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Las Vegas, NV 89183 CHRIS BLEVENS 11817 Galvani St. 43 Las Vegas, NV 89183 44 11593 Whipkey St. ERMINO R. BUENO Las Vegas, NV 89183 45 ROSA C. CANAS 102 Wall Violet Court Las Vegas, NV 89183 46 11600 Whipkey St. **ROSENDO CANO** 47 Las Vegas, NV 89183 MARGARITA CANO 11775 Bella Luna St. 48 CARLOS S. CARDENAS Las Vegas, NV 89183 49 218 Bella Matese Ave. AMANDA CHAI CASHMON 50 MICHAEL CASHMON Las Vegas, NV 89183 JUNE JUANITA COOPER 182 La Padania Ave. 51 Las Vegas, NV 89183 52 JOSE M. DIAZ 11858 Principi Court 53 **REGINA DIAZ** Las Vegas, NV 89183 11667 Fiorello Court 54 **TED DIMAGUILA** 55 ARACELI DIMAGUILA Las Vegas, NV 89183 EDWARD DONOGHUE 11611 Autunno St. 56 Las Vegas, NV 89183 57 DAWN EMDE 104 Masserta Court Las Vegas, NV 89193 11584 Whipkey St. 58 CHRIS T. EPICIOCO Las Vegas, NV 89183 11660 Fiorello Court 59 DANILO S. ESPINOSA 60 MARILYN O. ESPINOSA Las Vegas, NV 89183

COMPLAINT FOR DAMAGES

## Case 2:15-cv-00460-JAD-PAL Document 44-13 Filed 09/19/16 Page 9 of 18

11599 Rubino Drive Las Vegas, NV 89183

Las Vegas, NV 89183 11859 Montelair Park Court

Las Vegas, NV 89183

Las Vegas, NV 89183 11653 Rossovino St.

Las Vegas, NV 89183

106 La Padania Ave.

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

11695 Rossovino St.

Las Vegas, NV 89183

21 Harbor Pines Court

Las Vegas, NV 89183

Las Vegas, NV 89183 11759 San Rossore Court

Las Vegas, NV 89183

70 Peachtree Hill Ave. Las Vegas, NV 89183

11600 Vesuvio Court

Las Vegas, NV 89183

12032 Mystic Arbor

11675 Nardo Court

11624 Whipkey St.

11600 Giles St.

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

Las Vegas, NV 89183

11545 Giles St.

11777 Giles St.

11868 Galvani St.

138 Solidago Avc.

11586 Rubino St.

11580 Rubino St.

81 Glen Park Ave.

256 Morning Crest

11664 Primo St.

11895 Giles St.

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TERRY ETO

ABBY A. FADAIKAR

**GUADELIA D. FERRER** 

LORENZO FIESTA

ANDRES GONZALEZ

CLAUDIA GONZALEZ

VIRGILIO GONZALES

ANTHONY GUECO

RAMON GUIRAO

COREY HERPIN

LAVETTE GUIRAO

HAROLD HAMILTON

P. KRISTINE HERPIN

NICOLAS HORCASITAS

CAROLINA HUNTINGTON

CHRISTINE O. KRUMINS-WARRAS

KERRY T. HONDA

CINDY M. HONDA

MICHAEL HUBEL

COLEEN HUBEL

TANYA JEFFRIES

JULIO A. JIMENEZ

NAN GUI, KIM

KATHY LATIFI

FREDDY LEUNG

JOANNA LEUNG

ROBERT S. LOOS

GLORIA H. MARTINEZ

CHARLITA GONZALES

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8 COMPLAINT FOR DAMAGES

# Case 2:15-cv-00460-JAD-PAL Document 44-13 Filed 09/19/16 Page 10 of 18

Ш

| 90         | BELETE MEKONNEN        | 266 Maddelena Ave.       |
|------------|------------------------|--------------------------|
| 91         | HELEN MEKONNEN         | Las Vegas, NV 89183      |
| 92         | GREGORIO MENDOZA       | 233 Lantana Breeze Drive |
| 93         | RUTH MENDOZA           | Las Vegas, NV 89183      |
| 94         | CRAIG L. MORAN         | 26 Snow Pond Court       |
|            |                        | Las Vegas, NV 89183      |
| 95         | AURELIO MUNOZ          | 11742 Village Arbor St.  |
| 96         | ANA FRANCISCA MUNOZ    | Las Vegas, NV 89183      |
| 97         | STEVEN LLOYD           | 11658 Elcadore St.       |
| 98         | WHITNEY LLOYD          | Las Vegas, NV 89183      |
| 99         | MERLE LOK              | 11692 Tierney Creek      |
| 100        | DOYLE ELLIS            | Las Vegas, NV 89183      |
| 101        | GREGORIO MESA          | 11568 Whipkey St.        |
| 102        | MARIA MESA             | Las Vegas, NV 89183      |
| 103        | MICHAEL ROGER MILLER   | 63 Dark Creek Ave.       |
| 104        | WENDELL KELLY TINKER   | Las Vegas, NV 89183      |
| 105        | ILEANA PEREZ           | 223 Calvino Ave.         |
| - Ph. Asso |                        | Las Vegas, NV 89183      |
| 106        | INNA PETER             | 11607 Giles St.          |
|            |                        | Las Vegas, NV 89183      |
| 107        | CARMEN RAMIREZ         | 11784 San Rossore Court  |
|            |                        | Las Vegas, NV 89183      |
| 108        | GINHAWA REYNOSO        | 114 La Padania Ave.      |
|            |                        | Las Vegas, NV 89183      |
|            |                        | 11616 Rubino St.         |
|            |                        | Las Vegas, NV 89183      |
| 109        | DANA ROGERS            | 110 Gilliflower Ave.     |
|            |                        | Las Vegas, NV 89183      |
| 110        | LORENA ROSALES         | 11770 Magliana St.       |
| 1.0        | and another thanks and | Las Vegas, NV 89183      |
| 111        | CRES SALONGA           | 11695 Tierney Creek Ave. |
| 1.00       |                        | Las Vegas, NV 89183      |
| 112        | RICARDO SCHROTH        | 11709 Splendor View Driv |
| 113        | ZENAIDA SCHROTH        | Las Vegas, NV 89183      |
| 114        | ALFONSO T. SOLIS       | 349 Maddelena Ave.       |
| 115        | YDANIA SOLIS           | Las Vegas, NV 89183      |
| 116        | SAM SUN                | 64 Jewel Mine Ave.       |
| 117        | SHIZUKA SUN            | Las Vegas, NV 89183      |
| 118        | BOBBY TAEZA            | 152 Bella Milano Ave.    |
| 119        | MARITES TAEZA          | Las Vegas, NV 89183      |
| 120        | MARCIANO TAMAYO        | 11737 Tierney Creek      |
| 121        | YVONNE TAMAYO          | Las Vegas, NV 89183      |
| 122        | MARIA TOKIFUJI         | 16 Harbor Pines Court    |
| 123        | EDWIN TOIFUJI          | Las Vegas, NV 89183      |
| 124        | ANDREW J. THURLOW      | 11790 Bella Luna St.     |
| 124        | THOREW D. THOREOW      | Las Vegas, NV 89183      |
|            |                        | Lus ( cgus, 11 ( 0)105   |

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11834 Newport View St. Las Vegas, NV 89183

301 Morning Crest

Las Vegas, NV 89183

11861 Partenio Court

Las Vegas, NV 89183 335 Bianco Ridge Ave.

Las Vegas, NV 89183 61 Foxworth Court

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11583 Vesurio Court Las Vegas, NV 89183

102 Gilliflower Ave.

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Las Vegas, NV 89183 11719 San Rossore Court

Las Vegas, NV 89183

30 Summer Walk Ave.

Las Vegas, NV 89183

158 Bella Milano Ave.

Las Vegas, NV 89183 11962 Jersey Lilly Ave.

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Las Vegas, NV 89183

11820 Bella Luna St.

Las Vegas, NV 89183

225 Centocelle Ave.

97 Glen Park Ave.

11688 Tierney Creek Dr.

11643 Terenzio Ct. Las Vegas, NV 89183

235 Calvino Ave.

11602 Andorra St.

11563 Rubino St.

11658 Autunno St.

117 Tansy Court

154 La Padania

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MARIA C. YOUNG

139

ANGELO SARGENTI, JR.

SONYA LOVE

MONICA WONG

CHARK TONG WONG

SHIRLEY B. EDEJER

DARLINO E. EDEJER

ROBERT P. BAZAR

VINCENT HAMON

EARLENE BATEMAN

HERALD B. MABANTA

SUSAN C. MABANTA

TERESITA ANGELES

CLARITA COLLINS

STEVE NGUYEN

LOIS E. BAZAR

GREGORY H. ROBERTSON

KIMBERLY A. ROBERTSON

GRACIELA C. WHITE

CARLOS A. ZAVALA

ROMEL C. OLFINDO

LUCILLE GAVINS

SINISE VUKSIC

MANOJ ASWANI

NIKITA ASWANI

**RUBY CACACHO** 

**ARMAND CACACHO** 

**TEODELINDA AMADOR-ZAVALA** 

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ATA KASHANI SIMA KASHANI LADREA LA BRANCHE

> 10 COMPLAINT FOR DAMAGES

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